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LAWS, RULES, AND REGULATIONS PERTAINING TO GROUNDWATER IN NEBRASKA

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LAW, RULES, AND REGULATIONS PERTAINING TO GROUNDWATER IN NEBRASKA

Compiled by Gerald R. Svoboda

June 1, 1976

CONSERVATION AND SURVEY DIVISION

INSTITUTE OF AGRICULTURE AND NATURAL RESOURCES

UNIVERSITY OF NEBRASKA-LINCOLN

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PERTAINING TO
GROUNDWATER IN NEBRASKA

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THE UNIVERSITY OF NEBRASKA--LINCOLN

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INTRODUCTION

This publication contains (1) Nebraska laws pertaining to groundwater, and (2) the duties assigned to or the rules and regulations developed by various Nebraska agencies charged with the regulation of groundwater use.

Following public hearings, rules and regulations can be changed at any time by state agencies. Each state agency with responsibility for groundwater regulation is able to supply, upon request, its rules and regulations pertaining to groundwater use.

Water legislation varies from state to state because of differences in climate, availability and utilization of water, and fundamental legal concepts inherited at the time of statehood. Some states have laws based on the doctrine that all the water within the state, both at and below the surface, belongs to all the people of the state and is subject to appropriation by the people. In other states, laws are based on the doctrine that water pertains to the land through which it flows or under which it occurs. Nebraska water law is based on both doctrines. In general, surface water in Nebraska is the property of the public and is dedicated to the use of the people of the state, subject to regulated appropriation. Water occurring under the land surface in Nebraska is regarded as pertaining to the land.

The Nebraska Constitution and the Revised Statutes of Nebraska provide for the preferential use of water in the state. The use of water for domestic purposes shall have preference over all other uses, and the use of water for agricultural purposes shall have preference over the use of water for manufacturing and industrial purposes.

Elsewhere within the United States, three theories of common law generally contribute to the rules and regulations governing groundwater use. These are the English rule of absolute ownership, the American rule of reasonable use, and the California rule of correlative rights.

The English rule declares that a landowner has the right of unlimited use of water from a source underlying or contiguous to his land. In 1843, the decision in the English case of Action v. Blundell stated that a landowner is entitled to unrestricted use of water from a well dug on his property.

The American rule acknowledges a landowner's proprietary interest in water on or under his land but adds the restriction of reasonable use. This restriction limits a landowner's use of water on or under his land to reasonable use, in view of similar rights of others. Under the American rule, a landowner may not take all the groundwater supplies underlying his land for his own private use if by so doing he effectively deprives other landowners of a supply. The American rule is traceable to a New Hampshire Supreme Court ruling of 1862 in the case of Bassett v. Salisbury Manufacturing Company.

The California rule of correlative rights starts with the basic premise that landowners have no proprietary rights to water under their soils. It recognizes instead that each owner of land over a common source of groundwater has an equal and correlative right to make a beneficial use of the water on his land. In times of shortage, the common groundwater supply is apportioned among owners whose land lies over the underground source by giving each a fair and just proportion. The California doctrine of correlative rights stems from a 1903 decision in the Katz v. Walkinshaw case.

By 1933, the American rule and the California rule of correlative rights were to some extent related in a decision of the Supreme Court of Nebraska in the Olson v. City of Wahoo case. The ruling in that case stated: "The American rule is that the owner of land is entitled to appropriate subterranean waters found under his land, but he cannot extract and appropriate them in excess of a reasonable and beneficial use upon the land which he owns . . . and if the natural underground supply is insufficient for all owners, each is entitled to a reasonable proportion of the whole."

The above common-law theories of the rights of groundwater use are all predicated on the ownership of land; that is, the rights to water use are incident to land ownership. Some states have by statute adopted the doctrine of appropriation to apply to groundwater. This doctrine is applied with comparative ease to waters in watercourses and lakes, but its application to groundwater

is not as simple because diversion by wells from an underground water supply makes it difficult to prove relative shortages and interference effects.

The Nebraska Legislature has never specifically adopted or affirmed any one system of rights to groundwater; therefore, Nebraska derives its rules covering groundwater use primarily from case law and from common-law theories.

The status of common-law rights to groundwater is somewhat in question in Nebraska at the present time. The English rule of absolute ownership has been rejected, but case law can be found to support the contention that either the American rule of reasonable use or a combination of that rule and the California rule of correlative rights govern groundwater usage. The Nebraska Groundwater Management Act of 1975, appearing on pages 58-65 as sections 46-656 to 46-673 of the Revised Statutes of Nebraska, 1943, provides for administrative regulation consistent with the California rule, but this new act has not yet been sufficiently implemented or interpreted to determine the extent to which it may have altered common-law rights.

DUTIES OF THE CONSERVATION AND SURVEY DIVISION
OF THE UNIVERSITY OF THE NEBRASKA, AS DEFINED
IN CHAPTER 85, ARTICLE 63, REISSUE REVISED
STATUTES OF NEBRASKA, 1943

85-163. There is hereby created the Conservation and Survey Division of the University of Nebraska, which shall include the following state surveys: Soil, geological, water and water power, forest, road materials, and industrial. The Conservation and Survey Division shall perform the duties hereinafter defined:

- (1) Survey and describe the natural resources of the state, including soil, water, water power, potash, forests, road materials, and cement;
- (2) Study the climate, physical features, geology, and mineral resources of the state;
- (3) Study and describe the operations, production, and importance of the leading industries of the state;
- (4) Investigate and report upon conservation problems of the state;
- (5) Study the water-bearing formations of the state, and assist the citizens in locating water supplies;
- (6) Secure and preserve the logs of wells drilled in the state, and preserve specimens from each stratum, member, or formation penetrated in said drillings, and inspect such drillings at any time during their progress, and require the person or persons in charge of drilling or prospecting to submit full data in regard to the specimens and logs of the wells;
- (7) Prepare and show lantern slides or pictures, including motion pictures, of the state's resources, industries, institutions and development, to be used for educational and industrial purposes within the state and for publicity purposes without the state, and secure and distribute other educational films and slides in Nebraska for educational purposes;
- (8) Compile and record, or publish information with reference to, the state's resources, industries and development, and when called upon so to do by an interested party, investigate and report upon oil, mineral, and gas structures and properties situated outside the state, and leases or interests therein or thereon being sold or offered for sale in Nebraska. In cases or propositions wherein said investigations show that mineral, oil, or gas properties are misrepresented, or that fraud is practiced in selling same, their officers or agents shall be notified by the Conservation and Survey Division, and if they continue to so operate the same in Nebraska after said notice is given, the division shall report its findings to the Attorney General for action; and
- (9) Serve the citizens as an information bureau in regard to the resources, industries, and development of Nebraska.

ORGANIZATION AND FUNCTION OF THE DEPARTMENT OF WATER RESOURCES

The Department of Water Resources was created by the 1957 Legislature and assigned all of the powers and duties formerly exercised by the Bureau of Irrigation, Water Power and Drainage, Department of Roads and Irrigation. The following statement from the Department of Water Resources summarizes those powers and duties.

The Department of Water Resources carries on the work which was started by the State Board of Irrigation, an agency created by the Legislature in 1895 and given jurisdiction over all matters pertaining to water rights for irrigation, power and other useful purposes. The original name was changed in 1911 to the State Board of Irrigation, Highways and Drainage, and the head of the Board, the State Engineer, was given responsibilities in additional fields, as indicated by the name. In 1919 the name was further changed to the Department of Roads and Irrigation, with jurisdiction over matters pertaining to highways, motor vehicle registration and law enforcement, in addition to matters pertaining to water rights. The 1957 change made the agency a separate department and returned it to a status similar to that held before it was expanded to assume the other responsibilities.

The Department of Water Resources has the duty of determining rights to the use of the waters of the natural streams of Nebraska for domestic and municipal uses, for irrigation, power, and other useful purposes. The department must also regulate the use of water from natural streams in accordance with the rights which have been determined and made of record.

The department is responsible for measuring and recording the flow of the various streams and canals in the state. For many years this stream-gaging program has been carried on under a cooperative agreement with the Surface Water Branch, U.S. Geological Survey. Currently, the department employs ten engineers who are engaged in the stream-gaging program. Approximately fifteen water commissioners are employed during the summer months to regulate the use of water from the natural streams.

The department receives plans and specifications for the proposed works to be constructed by drainage districts and for all dams to be constructed across natural streams or for reservoir purposes; construction on such works may not be commenced without the approval of the department.

Petitions for the formation of public power and public irrigation districts or for the formation of districts must have the approval of this department before any new district can become operative, and any change in the organization of such districts requires

the approval of this department. Petitions for formation of irrigation districts must be reviewed by the department and reported on to the county commissioners to whom they are addressed. All inclusions or exclusions of lands from such districts require the approval of the department.

Under an act of the 1957 Legislature, all irrigation wells are required to be registered in the office of this department. All new irrigation wells are to be registered within 30 days after their completion. Another act provides for a minimum distance between irrigation wells, municipal wells and industrial wells except when this department approves an application for a special permit for closer spacing.

The abilities to designate groundwater control areas, to issue well permits in such areas, and to regulate groundwater withdrawals within such areas in the absence of such regulation by natural resources districts are found in the Nebraska Ground Water Management Act. Also contained within the same act is the authority to prescribe regulations governing the method of abandonment of wells no longer used.

The department's responsibility in the area of groundwater is found in the Revised Statutes of Nebraska, 1943, Chapter 46, article 6, which are contained in this publication.

NOTE: Copies of "State of Nebraska, Department of Water Resources Rules" may be obtained by writing to the Department of Water Resources, P.O. Box 94607, Lincoln, Nebraska 68509.

RULES AND REGULATIONS OF THE DEPARTMENT OF
ENVIRONMENTAL CONTROL, STATE OF NEBRASKA,
PERTAINING TO GROUNDWATER

The Department of Environmental Control was created by the Nebraska Environmental Protection Act in 1971. It is responsible for administering and enforcing environmental rules and regulations and for monitoring the quality of the environment in Nebraska. In order to carry out its responsibilities, the Department is subdivided into four divisions -- air, water, solid waste, and agricultural pollution control.

Specifically in the area of groundwater, the Department investigates existing and potential groundwater pollution problems, monitoring local groundwater quality upon request. The Department enforces groundwater regulations (for example, those relating to injection well regulations) and prepares hydrogeologic and groundwater quality sections that are published in water quality reports.

In the near future, the Department plans to develop groundwater quality regulations and to initiate a statewide groundwater quality monitoring program.

Authorization for the Department of Environmental Control, State of Nebraska, to establish and enforce rules and regulations pertaining to groundwater is contained in Chapter 81, article 15, Reissue Revised Statutes of Nebraska, 1943.

The following sections are drawn from the Department's Rules and Regulations for the Control of Disposal Wells to Protect Groundwater and Other Subsurface Resources of the State of Nebraska.

Rule 2. PERMIT; WHEN REQUIRED

No person shall erect, modify, commence, alter, or operate any well for the disposal of waste into the subsurface of the State, except those wastes derived in association with oil and gas production and disposed of under the jurisdiction of the Nebraska Oil and Gas Conservation Commission pursuant to Chapter 57, article 9, Reissue Revised Statutes of Nebraska, 1943, As Amended, without first securing a permit to do so from the Department. Disposal wells in operation at the time of the adoption of these regulations shall be required to obtain a permit to continue operations. Such permit is issued and shall be issued by the Department in technical consultation with the Conservation and Survey Division, University of Nebraska, and the Oil and Gas Conservation Commission. Such conditions shall be designed to carry out the purposes of the Nebraska Environmental Protection Act, Chapter 81, article 15, Reissue Revised Statutes of Nebraska, 1943, As Amended, and the Water Quality Standards Applicable to Nebraska Waters adopted thereunder. Such permit shall not be issued without proper notice to owners as defined herein and pursuant to public hearing and shall be issued in two parts, namely construction and operating.

Rule 3. PERMITS; CONSTRUCTION; APPLICATION AND REPORT

For the construction, alteration, or modification of disposal wells for systems, the applicant shall file with the Department an application for a public hearing requesting approval of plans, and requesting issuance of a construction permit. Such application shall contain a favorable report submitted by a registered engineer and a qualified geologist consisting of the following:

(A) General Conditions

- (1) A legal description of the area within a radius of two (2) miles of the proposed system and a legal description of the site upon which the system would be located.

(2) An accurate map of the area within a two (2) mile radius of the proposed system showing the location of the system, property boundaries, surface and mineral ownership of record, the location of all water wells and oil and gas wells and whether the same are operating or have been abandoned and if appropriate, whether such wells have been plugged; and the location of all mines, test holes, and other artificial penetrations or excavations.

(3) A description of the depths and deepest formations to be penetrated by each of the wells, mines, excavations or penetrations required to be shown on the map required at (2) above.

(4) A description of local topography, industry, agriculture, population densities, culture, wildlife, and fish and other aquatic life within the area of the proposed system with a projection as to the probable effects of the system upon industry, agriculture, population, culture, wildlife, and fish and other aquatic life.

(5) A description of the mineral resources believed to be present in the area of the system and the probable effect of the system upon such mineral resources, together with a map or maps illustrating the regional geologic setting. Such exhibits shall be prepared by a qualified expert.

(6) A description and definition of all water resources within the probable zone of influence of the system, the available amounts and potential uses thereof and a map or maps indicating vertical and lateral limits of surface and subsurface water supplies.

(7) Location and nature of present and potential use of fluids from the disposal or affected aquifer formations in the general area.

(B) Evaluation of Geologic and Hydrologic Conditions

The application shall contain an evaluation of the generalized geologic and hydrologic conditions of the well site and area which may be reasonably expected to be affected by the proposed disposal project. The generalized geologic and hydrologic conditions may be appraised by drilling and testing and by obtaining data from published sources, public agencies, or geophysical prospecting methods.

(1) The following geologic conditions must be demonstrated:

(a) The disposal well shall be located in an area known to contain geologic structures

capable of containing the proposed injected effluent.

- (b) The injection zone shall have sufficient porosity, permeability, thickness, structural configuration, and areal extent to act as a safe storage reservoir.
- (c) The injection zone shall be isolated vertically by formations that are, for practical purposes, impervious to the effluent.
- (d) The injection zone should not contain natural resources in the same geologic structure which may be affected by said injection.

(2) The following hydrologic conditions must be demonstrated:

- (a) The injection zone should contain interstitial water having a concentration of at least 5,000 milligrams per liter total dissolved solids.
- (b) The rate and direction of groundwater movement in the injection zone should be evaluated.
- (c) If the injection zone is known to contain groundwater subject to protection in other areas, the direction and distances from the injection well to the brackish water or saline water interface shall be estimated within reasonable limits.
- (d) An estimation of the fluid chemistry of the interstitial water in the injection zone shall be made.

(C) Design and Construction of the Disposal Well should be summarized as follows:

- (1) Size of hole and estimated total depth of well.
- (2) Type, size, weight, strength, and related data with respect to all surface, intermediate, and production casing.
- (3) Specifications and proposed installation of tubing and packers.
- (4) Proposed cementing procedures and type of cement.
- (5) Proposed coring program.
- (6) Proposed information testing program.

(7) Proposed injection procedures, i.e., open hole, perforated casing.

(D) Disposal System

(1) Flow chart of all plans and specifications for the system and its appurtenances.

(2) Volume, rate and injection pressure of the fluid to be injected.

(3) A description of the chemical, physical, radiological, and biological properties and characteristics of the waste to be disposed of through the system, and the treatment proposed for such wastes.

(4) Compatibility of injected waste with physical and chemical characteristics of the injection zone.

(5) Diffusion and dispersion characteristics of the waste and formation fluid, including effect of gravity segregation.

(E) Operation of System

(1) Plans for monitoring the system and the plans for monitoring injection pressures and formation pressures, i.e., disposal wells and observation wells.

(2) Expected changes in pressure, rate of fluid displacement by injected waste, directions of dispersion and area affected by the system.

(F) A statement giving all sources relied upon for the information set forth in the application.

(G) Supply such other and further data as the Department may reasonably request. An applicant may upon its own initiative, or when requested by the Department, furnish an opinion of independent experts, satisfactory to the Department in respect to the accuracy and completeness of any information or data furnished by the applicant and on any aspect of the applicant's disposal system or the contemplated operation or effects thereof.

Rule 4. PERMITS; OPERATING; APPLICATION AND REPORT

For approval of the actual operation of the system and issuance of the operating permit, the applicant shall file with the Department an application for public hearing which shall contain the following:

- (A) Design of well within but not limited to the following specifications.

(1) At least two strings of casing shall be placed and centered in the well. The outer string shall extend at least 100 feet below the lowest limit of groundwater subject to protection in the area. The inner string of casing shall extend at least into the upper portion of the injection zone. All casing shall consist of new seamless casing meeting or exceeding American Petroleum Institute specifications for casing. The casing strings shall be designed utilizing the following safety factors:

Collapse	1 1/8
Tension	2
Internal Pressure	1 1/8

All casing shall be cemented from bottom to top utilizing cement conforming to American Petroleum Institute specifications and shall be of a type recommended by a cementing specialist after analysis of the effluent and the effect of such effluent on said cement. All cement shall be placed by the displacement method under pressure and shall be allowed to set under pressure for a minimum of 24 hours. The cementing operation shall be performed by a qualified and experienced well servicing company. A cement bond log shall be run upon completion of each cementing operation.

(2) The well shall be logged upon completion of drilling by a qualified well servicing company by the appropriate mechanical, electrical or radioactive logs to indicate the general lithology, permeable bed thickness, porosity, and resistivity of interstitial water.

(3) Samples of all rocks obtained by drilling and coring of the disposal well or other accessory holes and any results of tests performed upon these rocks shall be placed on file with the Conservation and Survey Division, University of Nebraska.

(4) The well shall be constructed so that the effluent is transported to the injection zone through a string of injection tubing. Tubing shall be fabricated of corrosion resistant materials or shall be coated to provide corrosion resistance to the effluent injected.

Injection tubing shall be fixed to the inner string of casing by a tubing packer located near the injection interval. The packer shall be of the permanent type and shall feature a back pressure valve and be adaptable to the use of a stinger for injection. The packer shall be fabricated of corrosion resistant material or shall be coated to provide corrosion resistance to the effluent injected. The annular space between the injection tubing and the inner casing string shall be filled with a liquid approved by the Department.

(5) The wellhead shall contain automatic safety valves which will provide shutdown in case of tubing-casing annulus pressure buildup, loss of wellhead pressure, or wellhead fire.

(B) Evaluation of Injection Zone

The characteristics of the injection zone shall be evaluated before an operating permit is issued by the Department. Some properties of the rock and fluid of the injection zone may be evaluated from logs run and cores taken from the injection zone, and other properties may be evaluated from tests conducted on the injection. The following properties of the injection zone shall be determined:

(1) Effective porosity.

(2) Effective permeability and relative permeability between the interstitial water and the effluent.

(3) Chemical constituents of the interstitial waters and the chemical and physical characteristics of the injection zone rocks including the approximate fracture pressure.

(4) Temperature of the injection zone.

(5) The static bottom hole pressure in the injection zone.

(6) Permeable thickness of the injection zone.

(7) Injection profile of the injection zone based on injectivity tests at various injection rates utilizing fluid having substantially the same viscosity as the proposed effluent. The lowest injection rate shall be at least one-half of the proposed injection rate. The highest rate should be at least twice the proposed injection rate but should in no case exceed the fracture pressure of the injection zone rocks. Injection data should be presented on a graph with the injection rates plotted against injection pressures.

(8) Applicant shall demonstrate that the proposed effluent is compatible with the injection zone and its interstitial water and that no undesirable chemical or physical reaction will occur.

(C) Surface Equipment Design

(1) A flow diagram showing the surface facilities shall be provided.

(2) Surface equipment, including pump, wellhead, transmission lines, holding tanks and treatment facilities shall be designed and constructed so that the system can be safely shut down in the event of component failure.

(3) All components of the surface facilities that may come in contact with the effluent, including pumps, lines, tanks, filters, etc., shall be fabricated of corrosion resistant material or shall be coated to provide corrosion resistance to the effluent.

(4) A secondary facility shall be maintained in the event of a temporary well failure. Such facility may consist of a lined, impermeable retention pond or storage tanks, or a treatment process that will prepare the effluent to a suitable degree for temporary surface storage or disposal.

Rule 5. MONITORING

The quality of the effluent shall be monitored by the applicant as specified by the Department, and the result of this analysis shall be transmitted to the Department as directed.

The quality and rate of injection shall be metered and this information shall be transmitted to the Department on a form prescribed. The injection pressure and the pressure in the casing-tubing annulus shall be monitored, and the information submitted as directed.

The injection pressure at the wellhead plus the hydrostatic pressure shall not exceed the fracture pressure of the injection zone which shall be determined from core samples by a qualified laboratory.

The operating permit may be suspended or revoked at any time by the Department if it determines that the injection well is being operated in violation of law, order, regulation or conditions of the operating permit. The Department shall have the right to make periodic visits to the installation for the purpose of inspecting the injection system.

Rule 6. ABANDONMENT

An injection hole or well that is to be abandoned shall have the injection tubing removed and the entire length of the well and injection zone filled with cement from the bottom to top. The cementing operation shall be performed by an experienced well servicing company. The cement shall have expansive properties and shall conform to American Petroleum Institute specifications and shall be placed in the well under pressure.

Any well being drilled as an injection well or monitoring well that for some reason is abandoned must be filled with cement from the bottom of the well to the top. The cement shall be placed in the well under pressure by an experienced well servicing company.

An affidavit, setting forth in detail the significant data in connection with the well and the procedure used in plugging, signed by a qualified witness to the plugging and duly notarized, shall be filed in duplicate with the Department, within fifteen (15) days after plugging is completed. The Department reserves the right to require the operator to replug any well where it can be determined that the plugging was not effective due to failure of cement or other difficulty.

Rule 7. EXCEPTIONS

The Department may within its discretion and for good cause shown and in technical consultation with the Conservation and Survey Division, University of Nebraska, and the Oil and Gas Conservation Commission grant exceptions to these regulations when the policy objectives of the regulations are otherwise met. The holder of the permit shall state, in writing, the reason for requesting such exception or exceptions which shall be incorporated as part of the permanent record of the Department.

RULES AND REGULATIONS OF THE NEBRASKA OIL AND GAS
CONSERVATION COMMISSION PERTAINING TO GROUNDWATER

Authorization for the Nebraska Oil and Gas Conservation Commission to establish and enforce rules and regulations is contained in Chapter 57, article 9, sections 57-901 through 57-922, Reissue Revised Statutes of Nebraska, 1943.

57-905. Oil and Gas Conservation Commission; powers.

(1) The commission shall have jurisdiction and authority over all persons and property, public and private, necessary to enforce effectively the provisions of sections 57-901 to 57-921.

(2) The commission shall have authority, and it is its duty, to make such investigations as it deems proper to determine whether waste exists or is imminent or whether other facts exist which justify action by the commission.

(3) The commission shall have authority to require: (a) Identification of ownership of oil or gas wells, producing leases, tanks, plants, structures and facilities for the production of oil and gas; (b) the making and filing of directional surveys, and reports on well location, drilling, and production within six months after the completion or abandonment of the well; (c) the drilling, casing, operating and plugging of wells in such manner as to prevent the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas strata, the pollution of fresh water supplies by oil, gas or salt water, and to prevent blowouts, cave-ins, seepages, and fires; (d) the furnishing of a reasonable bond with good and sufficient surety, conditioned for the performance of the duty to comply with all the provisions of the laws of the State of Nebraska and the rules, regulations and orders of the commission; (e) that the production from wells separated into gaseous and liquid hydrocarbons, and that each be accurately measured; (f) the operation of wells with efficient gas-oil and water-oil ratios, and to fix these ratios; (g) metering or other measuring of oil, gas or product in pipe lines or gathering systems; and (h) that every person who produces or purchases oil or gas in this state shall keep and maintain or cause to be kept and maintained for a five-year period complete and accurate records of the quantities thereof, which records shall be available for examination by the commission or its agents at all reasonable times, and that every such person file with the commission such reports as it may reasonably prescribe with respect to such oil or gas or the products thereof.

(4) The commission shall have authority, in order to prevent waste, to regulate: (a) The drilling, producing and plugging of wells, and all other operations for the production of oil or gas; (b) the shooting and chemical treatment of wells; (c) the spacing of wells; (d) operations to increase ultimate recovery such as, but

without limitation, the cycling of gas, the maintenance of pressure, and the introduction of gas, water or other substances into producing formations; and (e) disposal of oil-field wastes, including salt water.

(5) The commission shall not have authority to limit the production of oil or gas, or both, from any pool or field except to prevent waste therein.

(6) The commission shall have authority to classify wells as oil or gas wells for purposes material to the interpretation or enforcement of the provisions of sections 57-901 to 57-921.

(7) The commission shall have authority to promulgate and to enforce rules, regulations and orders to effectuate the purpose and the intent of sections 57-901 to 57-921.

(8) The commission, with the approval of the Governor, shall have authority to establish and maintain its principal office and its books, papers, and records at such place in the state as it shall determine. The commission shall not have authority to purchase its principal office quarters.

(9) The commission shall have authority to require that all wells drilled for oil and gas shall be adequately logged with mechanical-electrical logging devices, and to require the filing of logs.

(10) The commission shall have the authority to regulate the drilling and plugging of seismic and stratigraphic tests in oil and gas exploration holes.

PROTECTION OF WATER-BEARING FORMATIONS

In the conduct of oil and gas operations, each owner shall exercise due care in the protection of water-bearing formations as required by the applicable statutes of the State of Nebraska.

Special precautions shall be taken in drilling and abandoning wells to guard against any loss of artesian water from the stratum in which it occurs and the contamination of potable water by objectionable water, oil or gas. Before any oil or gas well is completed as a producer, all oil, gas and water strata above and below the producing horizon shall be sealed or separated in order to prevent the intermingling of their contents.

CONVERSION TO WATER WELLS

In the case of a well which is capable of producing potable water which may be beneficially used by an individual or a community, the owner shall have the right to dispose of the well to responsible parties providing that written approval of the owner of the surface rights to the land on which the well is located is secured and filed with the Commission and written notice is given to the Director and approved by him subject to the approval of the Commission. A release

from responsibility incurred by this action should be secured from the individual or community by the owner of the well and a copy of said release filed with the Director. The State Department of Water Resources should be consulted to determine if the water well that results is under the jurisdiction of said Department.

CASING AND CEMENTING OF INJECTION WELLS

Wells used for the injection of gas, air, water, steam, or other substances into the producing formation shall be cased with safe and adequate casing or tubing to prevent leakage. Casing or tubing shall be set and cemented in a manner which will prevent damage to oil, gas, fresh water or other resources.

MILL LEVY RETURN

In areas where pressures and formations are unknown, sufficient surface casing shall be run to reach a depth below the base of formations generally contributing water supplies for domestic, agricultural and municipal use as well as water bearing formations reasonably expected to be utilized for domestic, agricultural and municipal use if not presently utilized. The amount of surface casing run shall be sufficient to prevent blowouts and uncontrolled flows at reasonable depths and of sufficient size to permit the use of an intermediate string or strings of casing where necessary to control deeper blowout or uncontrolled flow sources. Surface casing shall be set in a relatively impervious formation and shall be cemented by the plug or displacement or other approved method with sufficient cement to fill the annulus to the top of the hole except in cases where unusually long strings of surface casing are required and approval is secured from the Director or his authorized agent to use other adequate methods of cementation.

In wells drilled in areas where subsurface conditions are known through drilling experience, surface casing shall be set and cemented to the surface by the pump and plug or displacement or other approved methods at a depth sufficient to protect all domestic, agricultural or municipal water supplies and to insure against blowouts or uncontrolled flows.

POLLUTION AND SURFACE DRAINAGE

Owners shall take all reasonable precaution to avoid polluting streams and underground water. No salt water, brackish water or other water unfit for domestic, livestock, irrigation or other general use shall be allowed to flow over the surface or into any stream or underground fresh water zone.

OPEN PIT STORAGE OF OIL

The owner shall not, except during an emergency or except by special permission of the Director, permit oil to be temporarily stored or retained in earthen reservoirs or in any other receptacle that may introduce an accident or fire hazard.

UNDERGROUND DISPOSAL OF WATER

Hereafter, the underground disposal of salt water, brackish water or other water unfit for domestic, livestock, irrigation or other general uses is permitted only upon order of the Commission. Disposal wells shall be cased and the casing cemented in such manner that damage will not be caused to oil, gas, fresh water or other resources.

PROCEDURE FOR DISPOSAL OF WATER

The application to dispose of salt water, brackish water or other water unfit for domestic, livestock, irrigation or other general uses, shall be certified by the applicant, and filed in triplicate with the Commission, containing:

- (a) A plat showing location of the disposal well or wells and the location of all oil and gas wells including abandoned and drilling wells and dry holes and the names of all fee owners and owners as defined in the Act of record within one-half (1/2) mile of the proposed disposal well or wells.
- (b) The name description and depth of the formation into which water is to be injected.
- (c) The log of the disposal well or wells, or a description of the typical stratigraphic level of the disposal formation in the disposal well or wells.
- (d) A description of the casing in the disposal well or wells, or the proposed casing program and the proposed method for testing casing before use of the disposal well or wells.
- (e) A statement specifying the source of water to be injected.
- (f) The estimated minimum and maximum amount of water to be injected daily.
- (g) The means and addresses of those notified by the applicant, as required in item (j) of this rule.
- (h) Applications may be made to include the use of more than one disposal well on the same lease or on more than one lease.
- (i) The designated operator of a unitized or cooperative project shall execute the application.
- (j) In addition to the notice required by law, notice of the application shall be given by the applicant by certified mail or by delivering a copy of the notice to each owner of record as defined in the Act and such other persons as may be designated by the Commission within one-half (1/2) mile of the disposal well. A copy of such notice shall be filed with the Commission, and the applicant shall certify that notice by certified mail or by delivery to each owner of record within one-half (1/2) mile of the proposed disposal well has been accomplished, or give sufficient reason for being unable to do so.

(k) In the event no fee owner or owner as defined in the Act within one-half (1/2) mile of the disposal well, or the Commission itself files a written objection to the application within fifteen (15) days of the date of application, then the application shall be granted; but if any person or the Commission itself files written objection within fifteen (15) days of the application, then a hearing shall be held as soon as practicable.

(l) No notice is necessary to any person who has consented to the proposed installation in writing.

SUB-SURFACE PRESSURE TESTS

The Director may require sub-surface pressure measurements on a sufficient number of wells in any pool to provide adequate data for establishing maximum efficient rates of production (M. E. R.). Whenever a sub-surface pressure measurement is to be made in a well, such well shall remain completely shut-in for at least twenty-four (24) hours prior to the test. Tests may be witnessed by representatives of the offset operators.

PLUGGING

The requirements for plugging a well shall be as follows:

(a) A dry or abandoned well must be plugged in such a manner that oil, gas, water or other substance shall be confined to the reservoir in which it originally occurred. The material used in plugging, whether mud-laden fluid, cement, mechanical plug or some other suitable material, must be placed in the well in a manner to permanently prevent migration of oil, gas, water or other substance from the formation or horizon in which it originally occurred.

(b) The operator shall have the option as to the method of placing cement in the hole by (1) dump bailer, (2) pumping through tubing or drill pipe, (3) pump and plug or (4) other method approved by the Director or his authorized deputy.

(c) No substance of any nature or description other than that normally used in plugging operations shall be placed in any well at any time during plugging operations.

(d) In order to protect the fresh water strata, no surface casing shall be pulled from any well unless authorized by the Director.

(e) Before a dry hole is plugged, the operator shall notify the office of the Director or his authorized deputy.

(f) Before a producing well, or any well with production casing in the hole, is plugged, the operator shall notify the office of the Director by submitting Form 4, "Sundry Notices." Operator shall fully describe the proposed plugging and abandonment procedure on said form and shall set out the volume and position of each plug to be placed in the hole and the manner in which said plug will be

positioned. A fee, paid in advance, of twenty-five dollars (\$25) and payable to the Nebraska Oil and Gas Conservation Commission must be remitted with each Form 4 which gives notice of operator's intention to abandon a well with production casing in the hole.

(g) Following abandonment, working pits, reserve pits and/or burn pits shall be backfilled, pads levelled, debris removed or buried and land restored to the reasonable satisfaction of the Director.

PLUGGING OF SEISMIC AND STRATIGRAPHIC TESTS

It shall be the duty of any person, operator or contractor drilling a seismic or stratigraphic test, regardless of diameter or depth, whether cased or uncased, to plug said hole in a manner sufficient to properly protect all potable water bearing and possible or probable oil or gas bearing formations.

LIABILITY

The person who drilled or caused to be drilled any well for oil or gas or any seismic, core or other exploratory hole, whether cased or uncased, shall be liable and responsible for the plugging thereof in accordance with the rules and regulations of the Commission.

WATERFLOODING AND OTHER RECOVERY OPERATIONS

(a) Commencement of waterflooding and other recovery operations involving the introduction of extraneous forms of energy into any reservoir, including cycling or recycling operations and the extraction and separation of liquid hydrocarbons from natural gas in connection therewith is permitted only upon order of the Commission.

An application for an order approving any such operation shall contain the following:

(i) A plat outlining the area which will be affected by the proposed operation and showing all governmental quarter sections or lots equivalent thereto directly or diagonally offsetting said area. The names of the owner or operator of each separate tract of land shall be shown, and all wells, including dry, abandoned or drilling wells shall be properly located and designated on said plat. In the case of an operation conducted subject to a unit agreement, the area affected shall be the area subject to such agreement.

(ii) The names and addresses of each owner as defined by the Act, or operator as shown by the Commission records, of lands within the area which will be affected by the operation and of lands directly or diagonally offsetting said area. If the names or addresses of any such persons are unknown, the application shall so indicate.

(iii) A full description of the particular operation for which approval is sought.

(iv) The names and addresses of the operator or operators of the project.

(v) The formation or formations from which all wells are producing or have produced.

(vi) The name, depth and description of the reservoir, reservoirs, pool, pools or parts thereof to be so operated.

(vii) A log of the input well or wells, or such information with respect thereto as is available, or a statement that such logs will be furnished and offered in evidence at the hearing.

(viii) A description of the input wells casing program, or the proposed casing program, and the proposed method for testing casing prior to use of the wells for injection.

(ix) Statement as to whether gas, air, water or steam or other substances are to be injected, the source thereof, the estimated quantities to be injected daily, and whether an attempt will be made to ignite the reservoir.

(b) A waterflooding or other recovery operation commenced prior to the effective date of these rules may be continued without further order of the Commission, provided, however, that such operations, and all operations commenced with Commission approval shall be conducted in compliance with the Rules and Regulations of the Commission.

NOTICE OF COMMENCEMENT AND DISCONTINUANCE OF INJECTION OPERATIONS

The following provisions shall apply to all injection projects whether or not they are approved by the Commission.

(a) Immediately upon the commencement of injection operations, the operator shall notify the Commission of the date on which injection was commenced.

(b) Within ten (10) days after the discontinuance of injection operations, the operator shall notify the Commission of the date of such discontinuance and the reasons therefor.

(c) Before any intake well shall be plugged, notice shall be served on the Commission by the owner of said well and the same procedure shall be followed in the plugging of such well as provided for the plugging of oil and gas wells.

AUTHORITY OF THE DEPARTMENT OF HEALTH, STATE
OF NEBRASKA, PERTAINING TO GROUNDWATER

Authorization of the Department of Health, State of Nebraska, to establish and enforce rules and regulations concerning groundwater use in relation to public health and sanitation is contained in Chapter 81, article 6, Revised Statutes of Nebraska, 1943.

81-601. Department of Health; powers. The Department of Health shall have general supervision and control over matters relating to public health and sanitation, and shall provide for examination as provided in section 81-602, enforce the provisions of sections 81-601 to 81-604 and 71-2201 to 71-2512, and have supervision over all matters of quarantine and quarantine regulations.

NOTE: Copies of "Rules and Regulations Relating to Public Health, State of Nebraska," may be obtained, by writing to the Nebraska Department of Health, 1003 O Street, Lincoln, Nebraska 68508.

NEBRASKA SAFE DRINKING WATER ACT
LEGISLATIVE BILL 821
1976 LEGISLATIVE SESSION

Section 1. As used in this act, unless the context otherwise requires:

(1) Council shall mean the Advisory Council on Public Water Supply;

(2) Director shall mean the Director of Health or his authorized representative;

(3) Designated agent shall mean any political subdivision or corporate entity having the demonstrated capability and authority to carry out in whole or in part the provisions of this act and with whom the director has consummated a legal and binding contract covering specifically delegated responsibilities;

(4) Major construction, extension, or alteration shall mean those structural changes that affect the source of supply treatment processes, or transmission of water to service areas, but shall not include the extension of service mains within established service areas;

(5) Operator shall mean the individual or individuals responsible for the continued performance of the water supply system, or any part of such system, during assigned duty hours;

(6) Owner shall mean any person owning or operating a public water supply system;

(7) Person shall mean any individual, firm, partnership, association, company, corporation, political subdivision, or other entity;

(8) Water supply system shall mean all sources of water and their surroundings under the control of one owner, and shall include all structures, conduits, and appurtenances by means of which such water is collected, treated, stored, or delivered, except service pipes between street mains and buildings and the plumbing within or in connection with the buildings served;

(9) Public water supply system shall mean a water supply system designed to provide the public piped water fit for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. This definition shall include (a) any collection, treatment, storage, or distribution facilities under control of the operator of such system and used primarily

in connection with such system, and (b) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system; and

(10) Drinking water standards shall mean rules and regulations adopted pursuant to section 2 of this act, and which (a) establish maximum levels for harmful materials which, in the judgment of the director, may have an adverse effect on the health of persons, and (b) which apply only to public water supply systems.

Sec. 2. (1) The director shall adopt and promulgate necessary minimum drinking water standards, in the form of rules and regulations, to insure that drinking water, supplied to consumers through all public water supply systems, shall not contain amounts of chemical, radiological, physical, or bacteriological materials which are determined by the director to be harmful to human health.

(2) In determining what materials are harmful to human health, and in setting maximum levels for such harmful materials, the director shall be guided by:

(a) General knowledge of the medical profession as to materials and substances which are harmful to humans if ingested through drinking water; and

(b) General knowledge of the medical profession and related scientific fields as to the maximum amounts of such harmful materials which may be ingested by human beings, over varying lengths of time, without resultant adverse effects on health.

(3) Subject to section 10 of this act, state drinking water standards shall apply to each public water supply system in the state, except that such standards shall not apply to a public water supply system:

(a) Which consists only of distribution and storage facilities and does not have any collection and treatment facilities;

(b) Which obtains all of its water from, but is not owned or operated by, a public water supply system to which such standards apply;

(c) Which does not sell water to any person; and

(d) Which is not a carrier which conveys passengers in interstate commerce.

Sec 3. (1) Commencing January 1, 1978, no person shall operate or maintain a public water supply system without first obtaining a permit to operate such system from the director.

(2) To aid in accomplishing the purposes of this act, the director shall inspect public water supply systems and report findings to the owner, publish a list of those systems in compliance, and promote the training of and certify the capability of operators,

and may seek a temporary or permanent injunction or such other legal process as is deemed necessary to obtain compliance with the provisions of this act.

(3) The basis for denying or revoking a permit to operate a public water supply system shall be noncompliance with the provisions of this act or the rules and regulations adopted thereunder.

(4) Any person shall be granted, upon request, an opportunity for a hearing before the department under the provisions of Chapter 84, article 9, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto, prior to the denial or revocation of a permit. Judicial review of such denial or revocation may be obtained as provided by such chapter and article.

Sec. 4. (1) The director shall adopt and promulgate necessary minimum rules and regulations governing the siting, design, construction, alteration, and operation of public water supply systems to insure that such public water systems shall not contain amounts of chemical, radiological, physical, or bacteriological materials which are determined by the director, pursuant to section 2 of this act, to be harmful to the physical health of human beings. In adopting such rules and regulations, the director shall attempt to meet the following objectives:

(a) Insure the facilities are physically separated, to the greatest extent possible, from water or land areas which contain high levels of materials which are harmful to humans;

(b) Insure that such facilities, and all parts thereof, are physically sealed so that leakage of harmful materials into the water system itself from sources outside the system shall not occur;

(c) Insure that all materials which are used in the construction of a system shall not place harmful materials into the water system;

(d) Insure that all chemicals or other substances used to treat and purify water are free from harmful materials; and

(e) Insure, to the greatest extent possible, that such rules and regulations will allow uninterrupted and efficient operation of public water systems.

(2) The rules and regulations may contain differences and distinctions based on the physical size of the facilities and number of persons served, so long as the objectives of this section are met.

Sec. 5. (1) No major construction, extension, or alteration of a public water supply system shall be commenced after the effective date of this act without written authorization from the director. No such authorization shall be needed in the case of minor repairs and matters of maintenance. No such authorization shall be

granted unless plans and specifications, prepared by a registered professional engineer, and any additional information required by the department have been submitted to the department or its designated agent for review.

(2) Upon a finding that there has been compliance with the minimum sanitary requirements adopted pursuant to section 4 of this act, authorization to proceed with construction shall be granted by the director or his designated agent. In issuing authorization for the development of new public water supply sources, consideration shall be given to the location and effects of other water supply systems and the location of points of discharge or disposal for solid and liquid wastes.

Sec. 6. To carry out the provisions and purposes of this act, the director may:

(1) Enter into agreements, contracts, or cooperative arrangements, under such terms as are deemed appropriate, with other state, federal, or interstate agencies or with municipalities, educational institutions, local health departments, or other organizations, entities, or individuals;

(2) Require all laboratory analyses to be performed at the Department of Health Laboratory, or at any other laboratory which has entered into an agreement with the Department of Health therefor, and establish and collect fees for making laboratory analyses of water samples pursuant to sections 71-2618 to 71-2621, Revised Statutes Supplement, 1974, except that the provisions of subsection (4) of section 71-2619, Revised Statutes Supplement, 1974, shall not apply for purposes of this act;

(3) Receive financial and technical assistance from an agency of the federal government or from any other public or private agency;

(4) Enter the premises of a public water supply system at any time for the purpose of conducting monitoring, making inspections, or collecting water samples for analysis;

(5) Delegate those responsibilities and duties as deemed appropriate for the purpose of administering the requirements of this act, including entering into agreements with designated agents which shall perform specifically delegated responsibilities and possess specifically delegated powers; and

(6) Require the owner and operator of a public water supply system to establish and maintain records, make reports, and provide information as the department may reasonably require by regulation to enable it to determine whether such owner or operator has acted or is acting in compliance with the provisions of this act and rules and regulations adopted pursuant thereto. The department or its designated agent shall have access at all times to such records and reports.

Sec. 7. Commencing January 1, 1979, no public water supply system shall be issued or otherwise hold a permit to operate a public water supply system, granted by the department, unless its operator possesses a certificate of competency issued by the department.

Sec. 8. (1) Application for a certificate of competency to act as a certified operator of a public water supply system shall be made upon forms prepared by the director and shall contain such information as the director, by regulation, shall deem necessary.

(2) Certificates of competency to act as certified operators of public water supply systems shall be issued by the department for the calendar years applied for and shall expire at midnight on December 31 of the third year. Certificates of competency may be renewed triennially upon application. The department shall notify each certificate holder at least ninety days before the expiration of the certificate by a letter addressed to him at his last place of residence as noted upon its records.

(3) The department shall, within thirty days after receipt of an application, make an investigation and, if found in compliance with regulations adopted pursuant to section 9 of this act, shall issue a certificate of competency, valid until midnight of December 31 of the third year.

Sec. 9. The director shall adopt and promulgate minimum necessary rules and regulations governing the qualifications of operators of public water supply systems. In adopting such rules and regulations, the director shall give consideration to the level of training and experience which are required, in the opinion of the director, to insure to the greatest extent possible that the public water supply systems shall be operated in such a manner that (1) maximum efficiency can be attained, (2) interruptions in service will not occur, (3) chemical treatment of the water will be adequate to maintain purity and safety, and (4) harmful materials will not enter the public water supply system. The director may require, by regulation, that the applicant for a certificate of competency successfully pass an examination on the subject of operation of a public water supply system. The rules and regulations, and any tests so administered, may set out different requirements for different sizes of public water supply systems, so long as the criteria set forth in this section are followed.

Sec. 10. The director, with the approval of the council, may authorize variances or exemptions from the drinking water standards issued pursuant to section 2 of this act under conditions and in such manner as they deem necessary and desirable; Provided, that such variances or exemptions be permitted under conditions and in a manner which are not less stringent than the conditions under, and the manner in which, variances and exemptions may be granted under the Federal Safe Drinking Water Act, Public Law 93-523, 93rd Congress.

Sec. 11. (1) There is hereby established the Advisory Council on Public Water Supply which shall advise and assist the department in administering the provisions of this act.

(2) The council shall be composed of seven members appointed by the Governor, three of whom shall be owners or operators of public water supply systems, one of whom shall be a registered professional engineer, one of whom shall be a licensed physician, and two of whom shall be consumers of a public water supply system. Each operator of a public water supply system appointed to the council after January 1, 1979, shall be an operator certified by the director.

(3) The Governor shall make the initial appointments to the council within sixty days after the effective date of this act. In the making of initial appointments, one owner or operator and one consumer shall be appointed to serve for terms of one year each, one owner or operator, one consumer, and the physician shall be appointed to serve for terms of two years each, and one owner or operator and the registered professional engineer shall be appointed to serve for terms of three years each. Thereafter, all members shall be appointed for three-year terms. No member shall serve more than three consecutive three-years terms. Each member shall hold office until the expiration of his term or until a successor has been appointed. Any vacancy occurring in council membership, other than by expiration of term, shall be filled within sixty days by the Governor, by appointment from the appropriate category for the unexpired term.

(4) The council shall meet within sixty days after the appointment of its members and not less than once each year thereafter. Special meetings of the council may be called by the director or upon the written request for such meeting. The place of the meeting shall be set by the director. At the first meeting of the council, such officers as the council deems necessary shall be elected. A majority of the members of the council shall constitute a quorum for the transaction of business. Representatives of the department shall attend each meeting. Every act of the majority of the members of the council shall be deemed to be the act of the council.

(5) No member of the council shall receive any compensation but shall be entitled, while serving on the business of the council, to receive his travel and other necessary expenses while so serving away from his place of residence, on the same basis and subject to the same conditions as those of full-time state employees.

Sec. 12. Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than one hundred dollars nor more than five thousand dollars and a further fine of fifty dollars per day plus costs for each day of continued violation. It shall be the duty of the county attorney or the Attorney General, to whom the director reports a violation, to cause appropriate proceedings to be instituted without delay to assure compliance with this act.

Sec. 13. This act shall be known and may be cited as the Nebraska Safe Drinking Water Act.

Sec. 14. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portion thereof.

CHAPTER 2, ARTICLE 32
REISSUE REVISED STATUTES OF NEBRASKA, 1943

2-3229. The purpose of natural resources districts shall be to develop and execute, through the exercise of powers and authorities contained in this act, plans, facilities, works and programs relating to (1) erosion prevention and control, (2) prevention of damages from flood water and sediment, (3) flood prevention and control, (4) soil conservation, (5) water supply for any beneficial uses, (6) development, management, utilization and conservation of ground water and surface water, (7) pollution control, (8) solid waste disposal and sanitary drainage, (9) drainage improvement and channel rectification, (10) development and management of fish and wildlife habitat, (11) development and management of recreational and park facilities, and (12) forestry and range management. All such plans and programs are to be in conformance with the goals, criteria and policies of the state water plan as developed by the Nebraska Soil and Water Conservation Commission; Provided, that the development and execution of such plans and programs as authorized by this section within Nebraska planning and development districts shall be undertaken only if a properly designated district planning body for the area affected shall find that such plans and programs are not in conflict with the goals, objectives, or plans of the district planning board. Such planning body shall be accorded a period of thirty days to review and comment upon the plans and programs of natural resources districts. Failure to reply within thirty days shall be conclusive that the proposed plans and programs have been endorsed by the district planning body; Provided, that negative comments on plans or programs by the district planning body shall not delay action by the natural resources district or its agent when such plans and programs are specifically recommended in a functional plan that has been approved by the Legislature. The same thirty-day review period shall be provided for the central state planning agency. The execution of such plans and programs as authorized by this section may not be undertaken if as a result of this review the central state planning agency shall find that such plans and programs are in conflict with state policies and plans approved by the Legislature. Failure to reply within thirty days shall be conclusive that the proposed plans and programs have been endorsed by the central state planning agency. As to development and management of fish and wildlife habitat and development and management of recreational and park facilities, such plans and programs shall be in conformance with the outdoor recreation plan for Nebraska and the fish and wildlife plan for Nebraska as developed by the Game and Parks Commission. Plans for development and management of fish and wildlife habitat and recreational and park facilities shall be approved in writing by the Game and Parks Commission prior to their adoption or development. Periodic reports shall be submitted by the districts to the commission as such plans and programs develop and the commission shall coordinate the activities of the several districts to prevent conflicts of operations.

2-3238. Each district shall have the power and authority to develop, store and transport water, and to provide, contract for, and furnish water service for domestic purposes, irrigation, milling, manufacturing, mining, metallurgical, and any and all other beneficial uses, and to fix the terms and rates therefor. Each district may acquire, construct, operate, and maintain dams, reservoirs, ground water storage areas, canals, conduits, pipe lines, tunnels, and any and all works, facilities, improvements, and property necessary therefor. No district shall contract for delivery of water for irrigation uses within any area served by any irrigation district, public power and irrigation district, or reclamation district, except by consent of and written agreement with such irrigation district, public power and irrigation, or reclamation district.

2-3240. In matters pertaining to applications for appropriation and use of surface water, construction of dams, drainage and channel rectification projects and installation of ground water wells, districts shall comply with provisions of Chapter 46, articles 2 and 6, and the applicable rules and regulations of the Department of Water Resources.

2-3242. Each district shall have the power and authority to (1) build or construct, operate and maintain, any reservoir, dike or levee to prevent overflow of water, (2) drain any cropland subject to overflow by water, or drain wet land when desirable to make reasonable use of such land whether such condition is caused by surface water or ground water, or drain any land which will be improved by drainage, (3) locate and construct, straighten, widen, deepen, or alter and maintain any ditch, drain, stream, or watercourse, (4) riprap or otherwise protect the bank of any stream or ditch, and (5) construct, enlarge, extend, improve, or maintain any stream of drainage or system of control of surface water.

Nebraska Resource Development Fund

2-3263. It is hereby recognized that it is the public purpose of this state to properly develop the water and related land resources of the state and that it is in the public interest of this state to financially assist in programs and projects necessary to the development, preservation, and maintenance of Nebraska's water and related land resources, including programs and projects for the abatement of pollution, potential reduction of flood damages, reservation of lands for resource development projects, provision of public irrigation facilities, preservation and development of fish and wildlife resources, protection and improvement of public lands, provision of public outdoor recreation lands and facilities, provision and preservation of the waters of this state for all beneficial uses, including domestic, agricultural, and manufacturing uses, conservation of land resources, and protection of the health, safety and general welfare of the people of the State of Nebraska.

2-3264. There is hereby created the Nebraska Resources Development Fund to be administered by the Nebraska Natural Resources Commission and to which the State Treasurer shall credit to such fund to carry out the provisions of sections 2-3263 to 2-3272 such money as shall be appropriated to the fund by the legislature, be paid to the state as fees, deposits, payments, and repayments relating to the fund, both principal and interest, and be donated as gifts, bequests, or other contributions to such fund from public or private entities. Funds made available by any department or agency of the United States may also be credited to this fund if so directed by such department or agency. The money in the Nebraska Resources Development Fund shall not be subject to any fiscal year limitation requiring reappropriation of the unexpanded balance at the end of the fiscal year. Any money in the Nebraska Resources Development Fund available for investment shall be invested by the state investment officer pursuant to the provisions of the Nebraska State Funds Investment Act.

2-3265. Any money in the Nebraska Resources Development Fund may be allocated by the Nebraska Natural Resources Commission in accordance with the provisions of sections 2-3263 to 2-3272 for utilization by the commission, by any state office, agency, board, or commission, or by any political subdivision of the State of Nebraska to which has been granted the authority to develop the state's water and related land resources. Such money may be allocated in the form of grants or loans or for acquiring state interests in water and related land resources programs and projects undertaken within the state. The allocation of funds to a program or projects in one form shall not of itself preclude additional allocations in the same or any other form to the same program or project. Prior to September 1 of each year, an annual report shall be made to the Governor and the Legislature describing the work accomplished by the use of such development fund, which report shall include a complete financial statement.

2-3266. Allocations from the Nebraska Resources Development Fund may be made as grants to agencies or political subdivisions when it is determined that such an allocation will not be reimbursed from revenue or receipts and when the program or project appears to be of general public benefit, thereby making reimbursement of such money from local tax funds inappropriate or impossible, or when the funds are intended for a state or local contribution to a program or projects requiring such contribution to meet the requirements for a matching federal grant.

Allocations may be made from the fund by the commission as loans to agencies or political subdivisions for any program or project or any part thereof consistent with the purposes of sections 2-3263 to 2-3272 which will directly generate revenue or receipts or which can be anticipated to culminate in a program or project which will generate revenue or receipts, or which would not generate revenue or receipts but would be of general public benefit to the applicant making repayment from local tax funds appropriate.

2-3267. In order to develop Nebraska's land and water resources, the Nebraska Natural Resources Commission may acquire interests in water and related land resources projects in the name of the state utilizing the Nebraska Resources Development Fund. Such use of the fund shall be made when the public benefits obtained from the project or a part thereof are statewide in nature and when associated costs are determined to be more appropriately financed by other than a local organization. Such use of the fund may be made upon the determination by the commission that such acquisition is appropriate under the provisions of sections 2-3263 to 2-3272 and may be initiated upon a request filed in accordance with the provisions of section 2-3270 or by the commission itself without such a request. The commission may also acquire interests in water resource projects in the name of the state to meet future demands for usable water. Such resource projects may include but not be limited to the construction of dams and reservoirs to provide surplus water storage capacity for municipal and industrial water demands and for other projects to assure an adequate quantity of usable water. In furtherance of those goals the commission is authorized to contract with the federal government or any of its agencies or departments for the inclusion of additional water supply storage space behind existing or proposed structures.

2-3268. In order to assist the Nebraska Natural Resources Commission in administering the Nebraska Resources Development Fund, an advisory board to the commission is hereby created. The board shall consist of a representative of the following state agencies: The Department of Economic Development, the State Office of Planning and Programming, the Department of Environmental Control, the Department of Water Resources, the Department of Agriculture, the Game and Parks Commission, the Conservation and Survey Division of the University of Nebraska, and the Nebraska Natural Resources Commission. The advisory board may (1) adopt in accordance with the provisions of Chapter 84, article 9, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto, rules and regulations establishing criteria

for determining eligibility of programs and projects, for funding, and for carrying out any of its other responsibilities under sections 2-3263 to 2-3272, (2) conduct special studies necessary to the administration of the fund, (3) conduct any public hearings necessary to perform its duties, and (4) utilize the staffs of any of the member agencies to assist in the performance of its duties.

2-3269. Any organization qualified to apply for and receive funds from the Nebraska Resources Development Fund may file an application with the commission for a grant or loan from such fund. Applications for grants to the commission itself shall be filed by the commission directly with the advisory board. Each application shall be filed in such manner and form, and be accompanied by such information, as may be prescribed by the advisory board and the commission; Provided, that any such application filed under the provisions of sections 2-3263 to 2-3272 shall: (1) Describe the nature and purpose of the proposed program or project; (2) set forth or be accompanied by a plan for development of the proposed program or project, together with engineering, economic, and financial feasibility data and information, and such estimated costs of construction or implementation as may be required by the advisory board and the commission; (3) state whether money other than that for which the application is made will be used to help in meeting program or project costs and whether such money is available or has been sought for this purpose; (4) when appropriate, state that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands, and has or may acquire all water rights necessary for the proposed project; (5) show that the applicant possesses all necessary authority to undertake or participate in the proposed program or project; and (6) demonstrate the probable environmental and ecological consequences that may result from such proposed program or project. Upon receipt of an application, the commission shall refer it to the advisory board which shall evaluate and investigate all aspects of the proposed programs or project and the proposed schedule for development and completion of such program or project, determine the eligibility of the program or project for funding, and make appropriate recommendations to the commission pursuant to the provisions of sections 2-3263 to 2-3272. As a part of its investigation, the advisory board shall consider whether the plan for development of the program or project is satisfactory. If the board determines that the plan is unsatisfactory or that the application does not contain adequate information upon which to make its determinations, it shall return the application to the applicant and may make such recommendations to the applicant as are considered necessary to make the plan or the application satisfactory.

Request for utilization of the Nebraska Resources Development Fund for state participation in any water and related land-water resources projects through acquisition of a state interest therein shall also be filed with the commission and directed by it to the advisory board for their evaluation, investigation, and recommendations. Such requests shall be filed in the manner and form and be accompanied by such information as shall be prescribed by the advisory board and the commission.

2-3270. Each program or project for which funding is requested, whether such request has as its origin an application or the action of the commission itself, shall be reviewed as provided in sections 2-3263 to 2-3272 by the advisory board prior to the approval of any allocation for such program or project by the commission. The advisory board shall within a reasonable time, not to exceed six months, after receipt of such request, report to the commission the results of its review and shall recommend approval or rejection of the program or project for funding eligibility. The advisory board shall indicate what form of allocation it deems to be appropriate. In the case of an approved application recommended for a loan, the board shall also recommend the appropriate repayment period and the rate of interest. The commission shall act in accordance with such recommendations unless action to the contrary is approved by each commission member eligible to vote on the specific recommendation under consideration. No member of the commission shall be eligible to participate in the action of the commission concerning an application for funding to any entity in which such commission member has any interest. The advisory board may also upon request advise the commission on any other matter regarding the administration of the fund and may, by the commission, be delegated additional responsibilities consistent with the purposes of sections 2-3263 to 2-3272. It shall be the sole responsibility of the commission to determine the priority in which funds are allocated for eligible programs and projects under sections 2-3263 to 2-3272.

2-3271. The advisory board may recommend approval of and the commission may approve grants or loans for program or project costs or acquisition of interests in projects if after investigation and evaluation the board and the commission find that: (1) The plan does not conflict with any existing Nebraska state land or water plan; (2) the proposed program or project is economically and financially feasible based upon standards adopted by the advisory board pursuant to the provisions of sections 2-3263 to 2-3272; (3) the plan for development of the proposed program or project is satisfactory; (4) the plan of development minimizes any adverse impacts on the natural environment; (5) the applicant is qualified, responsible, and legally capable of carrying out the program or project; (6) in the case of a loan, the borrower has demonstrated the ability to repay the loan and there is assurance of adequate operation, maintenance, and replacement during the repayment life of the project; (7) the plan considers other plans and programs of the state in accordance with the provisions of section 84-135 [Reissue Revised Statutes of Nebraska, 1943] and resources development plans of the political subdivisions of the state; and (8) the money required from the development fund is available.

2-3272. If after review of the recommendation by the advisory board the commission determines that an application for a grant, loan, acquisition of an interest or combination thereof pursuant to the provisions of sections 2-3263 to 2-3272 is satisfactory and qualified to be approved, before the final approval of such application may be given and the funds allocated, the commission shall enter into an agreement in the name of the state with the applicant agency or organization and with any other organizations it deems to be involved in the program or project to which funds shall be applied.

The commission shall also enter into such agreements as are appropriate before allocation of any funds for the acquisition of interest in any qualified project when such acquisition is initiated by the commission itself pursuant to the provisions of section 2-3267. All agreements entered into pursuant to this section shall include but not be limited to a specification of the amount of funds involved, whether the funds are considered as a grant, loan, or for the acquisition of an interest in the name of the state and if a combination of these is involved, the amount of funds allocated to each category, the specific purpose for which the allocation is made, the terms of administration of the allocated funds, and any penalties to be imposed upon the applicant organization should it fail to apply or repay the funds in accordance with the agreement.

If the allocation to be approved is a loan, the commission and the applicant or applicants shall include in the agreement provisions for repayment to the fund of money loaned together with any interest at reasonable rates as established by the commission after recommendation from the advisory board. The agreement shall further provide that repayment of the loan, together with any interest thereon, shall commence no later than one full year after construction of the project is completed, and that repayment shall be completed within the time period specified by the commission. The repayment period shall not exceed fifty years, except that the commission may extend the time for making repayment in the event of extreme emergency or hardship. Such agreement shall also provide for such assurances of, and security for, repayment of the loan as shall be considered necessary by the commission.

With the express approval of the commission, an applicant may convey its interest in a project to a successor. The commission shall contract with the qualified successor in interest of the original obligor for repayment of the loan, together with any interest thereon, and for succession to its rights and obligations in any contract with the commission.

The state shall have a lien upon a project constructed, improved, or renovated with money from the fund for the amount of the loan, together with any interest thereon. This lien shall attach to all project facilities, equipment, easements, real property, and property of any kind or nature in which the loan recipient has an interest and which is associated with the project. The commission shall file a statement of the lien, its amount, terms, and a description of the project with the county register of deeds of each county in which the project or any part thereof is located. The county register of deeds shall record the lien in a book kept for the recording of liens and it shall be indexed as other liens are required by law to be indexed. The lien shall be valid until paid in full or otherwise discharged. The lien shall be foreclosed in accordance with applicable state law governing foreclosure of mortgages and liens. Any lien provided for by this section may be subordinate to that which secures federal assistance or other secured assistance received on the same project.

CHAPTER 46, ARTICLE 2

REISSUE REVISED STATUTES OF NEBRASKA, 1943, AND SUPPLEMENTS THERETO

46-281. Artesian water; waste prohibited. It shall be unlawful for any owner or owners, lessee or lessees, occupier or occupiers, foreman or superintendent of any farm, town lot or other real estate in the State of Nebraska, where artesian water has been found hereafter, to allow the water from wells or other borings or drillings on any farm, town lot, or other real estate in Nebraska to flow out and run to waste in any manner to exceed what will flow or run through a pipe one half of one inch in diameter, except where the water is first used for irrigation or to create power for milling or other mechanical purposes.

46-282. Artesian water; waste; penalty. Any person or persons who own, occupy or have control of any farm, town lot or other real estate in the State of Nebraska, who fail or refuse to close or shut off any wastage of artesian water to the amount that section 46-281 allows on any farm, town lot or other real estate which they own, occupy or have control of, after being notified in writing by any person having the benefit of such mutual artesian water supply, within forty-eight hours after such notification, shall be subject to arrest, and upon conviction shall be fined in the sum not less than ten dollars nor more than twenty-five dollars, and pay the costs of such arrest and prosecution for each offense; and if such wastage be not abated within twenty-four hours after such arrest and conviction, it shall be deemed a second offense against the provisions of section 46-281 and be subject to the same fine as for the first offense. Every like offense or neglect of each twenty-four hours thereafter shall be deemed and considered an additional offense against the provisions of section 46-281.

CHAPTER 46, ARTICLE 6
REISSUE REVISED STATUTES OF NEBRASKA, 1943, AND SUPPLEMENTS THERETO

46-601. Ground water; declaration of policy. The Legislature finds, recognizes and declares that the conservation of ground water and the beneficial use thereof are essential to the future well-being of this state. Complete information as to the occurrence and the use of ground water in the state is essential to the development of a sound ground water policy. The registration of all wells, except wells used solely for domestic purposes, in this state should be required.

46-602. Ground water; registration of wells; statement; log of well; exception; abandonment of well; replacement; procedure.
(1) The owner of each well, except wells used solely for domestic purposes, complete in this state shall complete appropriate registration forms within twenty days in such form as the director may direct, and shall contain a statement of (a) the location of such well, (b) the date of its completion, (c) the intended use of such well, (d) the size of such well, (e) the actual capacity of such well expressed in gallons per minute, and (f) the identification, by number, of a permit issued pursuant to section 5 of this act, if applicable, and (g) such additional information conformable to the statement of purpose contained in section 46-601 as the director might require; Provided, that all wells for which a permit has been or in the future is granted by the Department of Water Resources under sections 46-638 to 46-650, shall be exempt from the provisions of this section. Notwithstanding section 46-606, no fee shall be charged for registration of any well for which a permit was obtained pursuant to section 46-660.

(2) If the well has been drilled by any person other than the owner thereof, the registration shall be furnished in triplicate to the person actually drilling such well, to be forwarded with the certificate of the well driller required by section 46-603.

(3) Whenever any owner of a registered well, or a well required to be registered pursuant to subsections (1) and (2) of this section, shall abandon such well, he shall completely fill the well cavity in accordance with the rules and regulations of the Department of Water Resources. The method specified in such rules and regulations for filling well cavities shall be designed to eliminate any safety hazard created by abandoned wells and to prevent deterioration in the quality of the underlying ground waters. Written notice of any such abandonment shall be provided to the Department of Water Resources within sixty days thereafter.

(4) When any owner of an abandoned well replaces such well he shall, within thirty days after the completion of such replacement well, give notice to the department by filing in the office of the department completed well registration and well driller certificate forms, in triplicate, for the replacement well. No fee shall be collected for filing notice of abandonment or for the registration of the replacement of a registered well.

(5) When any owner of an abandoned well in a control area desires to replace such well, he shall, prior to commencing construction thereof, obtain a permit pursuant to the provisions of section 4 of this act. The owner of such abandoned well may immediately proceed to dig a replacement well and pump water therefrom without obtaining a permit if the pump installed in the replacement well is to be a capacity not greater than the pump formerly used in the abandoned well. Following completion of any such well, notice of such completion shall be given in the manner provided by subsection (4) of this section.

46-603. Ground water; log of well; certificate of well driller; data required. Any person actually drilling any well, except wells to be used solely for domestic purposes, either on his own account or for hire, shall keep an accurate log in triplicate, on certificate of well driller forms to be furnished by the Director of Water Resources, of the depth, thickness, and character of the different strata penetrated and the location of water-bearing strata. The certificate of the well driller shall also contain the dates of beginning and completion of work, the length, size, and weight of the casing and the method of its placement, the size of the drilled hole, where the drilled hole is sealed, the type of seal used, the legal description of the land on which the well is drilled, and such other data as the Director of Water Resources may reasonably require. The certificate of the well driller, which shall be accompanied by three copies of the registration form required by section 46-602, shall be transmitted by the person actually drilling the well to the director within thirty days after the completion of such well. Any certificate so transmitted shall indicate the number of the well permit previously issued by the director if such a permit was required by section 46-659.

46-604. Ground Water; certificate of well driller; copies, disposition. The Director of Water Resources shall retain one copy of the certificate of well driller and of the registration, and shall forward one copy of each to the soil and water conservation district office of the county in which the well is located, and one copy of each to the Conservation and Survey Division of the University of Nebraska.

46-605. Ground water; existing wells; registration; information required. The owner of any well required to be registered under the provisions of this act and completed prior to the effective date of this act shall, on or before January 1, 1968, register such well in the manner provided in section 46-602, and furnish, insofar as available, the information required to be furnished upon the registration of a new well.

46-606. Ground water; wells; registration fees; disposition. The Director of Water Resources shall collect in advance a fee of seven dollars and fifty cents for each well registered under the provisions of sections 46-602 and 46-605. The director shall pay such fees monthly into the state treasury and the State Treasurer shall credit such fees to the General Fund.

46-607. Ground water; violation of act; penalty. Any person violating any of the provisions of sections 46-601 to 46-606, or knowingly furnishing false information hereunder, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than one hundred dollars nor more than five hundred dollars.

46-608. Ground water; conservation; declaration of policy. The Legislature finds, recognizes, and declares that the conservation of ground water and the beneficial use thereof are essential to the future well-being of this state; that the drilling of irrigation wells in the state without regard to spacing is detrimental to the public welfare; and that the spacing of irrigation wells should be regulated.

46-609. Ground water; irrigation wells; spacing; requirements; exceptions. After September 20, 1957, no irrigation well shall be drilled upon any land in this state within six hundred feet of any other irrigation well except any well the water from which is used solely for domestic, culinary, stock use on a ranch or farm, or the watering of lawns and gardens for family use or profit where the area to be irrigated does not exceed two acres and except as provided in section 46-610; Provided, that any irrigation well which replaces an irrigation well drilled prior to September 20, 1957, and which is less than six hundred feet from another irrigation well shall be drilled within fifty feet of the old well.

46-610. Ground water; irrigation wells; special permit to drill without regard to spacing; application; fee. (1) Any person may apply to the Director of Water Resources for a special permit to drill an irrigation well without regard to the spacing requirements of section 46-609, and shall pay a fee to the Department of Water Resources of twelve dollars and fifty cents, which fee shall be paid into the state treasury by the director and by the State Treasurer placed in the General Fund. Such application shall be in such form as the director may direct, and shall contain a statement of the proposed location of such well, the reason for seeking such special permit, the legal description of the land to be irrigated by such well, the number of acres to be irrigated, the proposed size of such well, the estimated capacity of such well, expressed in gallons per minute, to the extent that capacity is susceptible of advance determination, and the name of the person who is actually going to drill such well.

(2) A separate application, like that provided for in subsection (1) of this section, shall be submitted for each well for which a special permit is sought. When considering the approval or rejection of any application, the director shall consider the size, shape, and irrigation needs of the property for which such special permit is sought, the known ground water supply, and the effect on the ground water supply and the surrounding land of the well for which such special permit is sought. Such application may be approved or disapproved in whole or in part, and the special permit issued or refused accordingly.

46-611. Ground water; irrigation wells; spacing requirement, not applicable, when. The prohibitions of section 46-609 shall not apply to the location of more than one irrigation well by a land-owner on his own farm, so long as each such irrigation well is at least six hundred feet from any other irrigation well located on a neighboring farm under separate ownership.

46-612. Ground water; conservation; violations; penalty. Any person violating the provisions of sections 46-608 to 46-611 shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than one hundred dollars nor more than five hundred dollars and shall be required to plug any well drilled in violation of sections 46-608 to 46-611.

46-612.01. Ground water; irrigation wells; fertilizer materials; place or permit; unlawful; penalty. Any person who shall place or permit any fertilizer material as defined in section 81-2, 162.02, in an irrigation well without a mechanical device on such well to protect the underground water supply from contamination in the event such well pump ceases to operate shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than one thousand dollars nor more than five thousand dollars or be confined in the county jail for not more than six months, or be both so fined and imprisoned.

46-613. Underground water; declaration of policy; preference in use, definition of ground water. Preference in the use of underground water shall be given to those using the water for domestic purposes. They shall have preference over those claiming it for any other purpose. Those using the water for agricultural purposes shall have the preference over those using the same for manufacturing or industrial purposes.

As used in this section, domestic use of ground water shall mean all uses of ground water required for human needs as it relates to health, fire control, and sanitation and shall include the use of ground water for domestic livestock as related to normal farm and ranch operations.

46-613.01. Ground water; transfer to adjoining state; Department of Water Resources; may authorize; reciprocity. Any person, firm, city, village, municipal corporation or any other entity intending to withdraw ground water from any well or pit located in the State of Nebraska and transport it for use in an adjoining state shall apply to the Department of Water Resources for a permit to do so. If the Director of Water Resources finds that the withdrawal of the ground water requested is reasonable, is not contrary to the conservation and use of ground water, and is not otherwise detrimental to the public welfare, he shall grant the permit if the state in which the water is to be used grants reciprocal rights to withdraw and transport ground water from that state for use in the State of Nebraska.

Ground Water Conservation Districts

46-614. Conservation district; formation. (1) Ground water conservation districts may be formed in the manner, and having the power, provided in sections 46-614 to 46-634.

(2) A proposal for the formation of a ground water conservation district must first be submitted to the three state agencies who, within a reasonable time, shall make a hydrologic and geographical evaluation of the proposed boundaries and recommend any changes in such boundaries as are indicated by such evaluation. No further steps for the formation of such district shall be taken until such agencies have, in writing, given their advice on such boundaries thereof.

46-614.01. Ground water conservation districts; organized prior to June 30, 1972; effect. After June 30, 1972, no new ground water conservation districts shall be organized under the provisions of sections 46-614 to 46-634. Attempted formations of ground water conservation districts under sections 46-614 to 46-634 which have not been completed before July 1, 1972, shall be null, void and of no effect for the purpose of organizing such district. All ground water conservation districts having valid corporate existence before July 1, 1972, shall enjoy all rights, duties, powers and authorities conferred by sections 46-614 to 46-634 and shall not be affected by this section nor shall the legality of formation, organization, or operation of any such district be subject to any legal action based on this section.

46-615. Three state agencies, defined. The three state agencies shall mean the Department of Water Resources, the Conservation and Survey Division of the University of Nebraska, and the Nebraska Natural Resources Commission.

46-616. Conservation districts; petition; filing. Following receipt of the advice required by section 46-614, a petition calling for formation of the proposed district may be filed with the county board of the county in which such proposed district is to be located or of the county having the greatest area within such proposed district when such proposed district includes land lying in two or more counties.

46-617. Conservation districts; petitions; contents; minor defects, effect; amendment. (1) The petition, referred to in section 46-616 shall set forth:

- (a) The name of the proposed district and boundaries thereof;
- (b) A proposed division of the district into divisions as nearly equal in size as may be practicable, each of which is to be represented by a director who is an owner of land in such division;
- (c) The number of directors that the district shall have, if formed, together with the name and address of each of the proposed directors, the division to be represented by each of them, and their terms of office, which shall be so designated that one-third of

them shall expire on the first Tuesday in March of the second year after the organization of the district is completed, one-third of them on the first Tuesday in March of the fourth year after the organization of the district is completed, and the remaining one-third of them on the first Tuesday in March of the sixth year after the organization of the district is completed.

(d) Where the offices of such proposed district are to be maintained; and

(e) A prayer that the district be organized as provided in sections 46-618 and 46-619.

(2) No petition for the organization of a district under sections 46-614 to 46-634 with the requisite signatures shall be declared null and void on account of minor defects, but the county board may at any time, prior to final determination of the sufficiency thereof, permit the petition to be amended in form and substance to conform to the facts. Several similar petitions or duplicate copies of the same petition of the organization of the same district may be filed and shall together be regarded as one petition. All petitions, filed prior to the determination of the sufficiency of such petition, shall be considered as though filed with the first petition placed on file.

46-617.01. Conservation district; additional land; procedure.

(1) A petition for the addition of land to a ground water conservation district shall follow the procedure for the organization of such district as provided in sections 46-614 to 46-634. The existing district shall recommend the approval or disapproval of such addition for the consideration of the county board with whom the petition for addition was filed. The petition for addition shall be filed with the county board of the county in which the proposed addition is located or of the county having the greatest area within such proposed addition when such proposed addition includes land lying in two or more counties. Those eligible to sign the petition as provided in section 46-618 and those eligible to vote as provided in section 46-620 shall be limited to those people within the areas to be included.

(2) Two or more ground water conservation districts may, after a public hearing, as provided in subsection (3) of this section, merge or consolidate if the majority of each ground water conservation district board involved votes in favor of such merger. In case of consolidation of districts, the corporate existence and the terms of office of officers of the old district shall expire upon issuance and recording by the three state agencies and the election commissioner or county clerk in each of the counties involved of a certificate of the new organization of a consolidated district. Upon consolidation all the rights, assets and liabilities of the consolidating districts shall be vested in and assumed by the consolidated district. The three state agencies shall appoint individuals to serve as directors in the consolidated district. These appointed directors shall serve until individuals are elected following procedures outlined in section 46-626. Terms of office

of directors in consolidated districts shall be staggered so that no more than three vacancies on the board shall be filled at any one election.

(3) The hearing provided for in subsection (2) of this section shall be called by the ground water conservation districts involved who shall fix the date, hour, and place for hearing upon such proposed consolidation and shall cause notice of such hearing to be given by publication once each week for two consecutive weeks in the legal newspaper published or of general circulation in the county or counties within the proposed district, the last publication of which shall be not less than ten days prior to the hearing. The directors of the ground water conservation district boards shall supervise the hearing.

46-618. Conservation district; petition; signatures; hearing; notice; publication. The county board shall examine the petition and, if it appears that the petition contains the signatures of at least ten per cent of resident owners of land in the proposed district, the board shall call a public hearing. The county board shall fix a date, hour, and place for hearing upon such petition and shall cause notice of such hearing to be given by publication once each week for two consecutive weeks in the legal newspaper published or of general circulation in the county or counties within the proposed district, the last publication of which shall be not less than ten days prior to the hearing. The three state agencies shall also be notified of the time and place of such hearing by regular mail.

46-619. Conservation district; county board; hearing; election, when. At the time set for such hearing, the county board shall examine the petition and hear objections thereto and may order changes in the boundaries thereof by the inclusion or removal of land therefrom upon finding that such change would be hydrologically and geographically sound.

(1) If the county board finds that the petition contains the signatures of sixty per cent of the resident owners of land of legal voting age within the proposed district the county board shall enter an order declaring the ground water conservation district fully organized; or

(2) If the county board finds that the petition contains the signatures of more than ten per cent but less than sixty per cent of the resident owners of land of legal voting age within the proposed district an election shall be held as provided in section 46-620 on the question of the organization of such district.

The action of the county board may be reviewed by the district court in error proceedings.

46-620. Conservation districts; submitted to landowners; general or special election. The election referred to in subdivision (2) of section 46-619 shall observe the following procedure. If no proceedings for review have been instituted within ten days after the county board has announced its action, such action shall be certified to the election commission or county clerk who shall order that the question of the organization of such district be submitted

to a vote of electors as defined in section 46-102, and shall fix the date of such election, which may be held either as a special election or at any general election, and which shall be so scheduled that the notices required by sections 46-621 and 46-622 can be given.

46-621. Conservation districts; election; notice; contents. The election commissioner or county clerk with whom such petition was filed shall give notice of the scheduling of such election to the election commissioner or county clerk of any other county to be embraced in whole or in part within such district. Such notice shall contain a statement of the question to be submitted at such election, the area in which such election is to be held, and the date thereof.

46-622. Conservation districts; election; notice; publication; contents. The election commissioner or county clerk of each county to be embraced in whole or in part within such district shall publish a notice once each week for three consecutive weeks in a legal newspaper having general circulation in his county, which notice shall state: (1) The fact of filing of the petition; (2) in summary form, the information required by subsection (1) of section 46-617 to be included in the petition; (3) that an election will be held to decide the question of organization of the proposed district; (4) the date of such election; (5) the polling places at which such election is to be held; (6) the qualifications of those eligible to vote at such election; and (7) the specific question to be submitted.

46-623. Conservation districts; elections; ballots; canvassed; certifications. The ballots cast at such elections shall be counted and canvassed as nearly as practicable in the same manner as for elections generally. Not later than one week after the holding of such election, each election commissioner or county clerk shall certify the results thereof to the election commissioner or county clerk with whom such petition was filed, who shall tabulate the results so certified to him, and if he finds that fifty-five per cent of those voting in such election voted in favor of the organization of the proposed district, he shall so certify to the three state agencies and the election commissioner or county clerk in each of the other counties lying in whole or in part within such district, and the district shall thereupon be fully organized. If the proposition to form such district is defeated at the election, the proposition may again be submitted to the landowners after the lapse of one year from the rejection thereof upon the filing of a new petition therefor.

46-624. Conservation district; body politic; sue and be sued; immunity of directors for debts. A district formed under the provisions of sections 46-614 to 46-634 shall be a body politic, and may sue and be sued in its own name, and no liability shall result to its directors on account of debts or other obligations of the district.

46-625. Conservation district; directors; qualification; oath; vacancies. At least a majority of the members of the board of directors shall be resident owners of irrigation wells subject to registration under the provisions of sections 46-601 to 46-613. Each

member of the board shall take an oath of office that he shall faithfully perform the duties of director. When such oath is so filed, such person so elected shall take and hold office until his successor is elected and qualified. When a vacancy occurs on the board, such vacancy shall be filled by the remaining members of the board.

46-626. Conservation district; directors; election; term of office; no filing fee. As the terms of the original members of the board of directors expire, their successors shall be nominated and elected for terms of six years by a majority vote of the land-owners of legal voting age of the division of the district which they represent. Such elections shall be held on the first Tuesday in February preceding the expiration of such terms and shall be conducted in the manner provided for election of directors of irrigation districts as provided in sections 46-115 to 46-118. No filing fee shall be required of candidates filing for the office of director of a ground water conservation district.

46-627. Conservation district; directors; no compensation; expenses. The members of the board of directors shall receive no compensation, but shall be paid their actual expenses while engaged in the business of such district.

46-628. Conservation district; officers; election; treasurer; bond; premium paid by district. The board of directors shall annually elect a president, vice president, secretary, treasurer, and such other officers as may be necessary. The treasurer, before assuming the duties of his office, shall give bond in the sum of five thousand dollars conditioned that he shall faithfully perform the duties of treasurer and shall account for all funds or property coming into his hands as such treasurer. Such bond shall run to the district, shall be signed by a surety or sureties approved by the county clerk of the county in which the office of the district is located, and shall be filed in the office of such clerk. The premium on such bond shall be paid by the district.

46-629. Conservation district; board of directors; general powers. The board of directors shall have authority to:

- (1) Maintain and equip an office, and employ such persons as may be needed;
- (2) Gather information concerning ground water conservation and supply this information as requested to the three state agencies and to the appropriate natural resources district or districts;
- (3) Promulgate and administer policies relating to ground water, except that responsibility as relates to land treatment programs shall be limited to making recommendations to the appropriate natural resources districts and their subdistricts, with such land treatment programs to be carried out as authorized in sections 2-3201 to 2-3262;

(4) Contract with any private individual, association, or corporation, or with any state agency, or subdivision thereof, engaged in ground water conservation, for performance of the activities mentioned in subdivisions (2) and (3) of this section;

(5) In cooperation with the extension service, disseminate technical information concerning ground water conservation;

(6) Adopt, administer, and enforce rules and regulations to ensure the proper conservation of ground water within the district as provided in section 46-630; and

(7) Levy a tax as provided in section 46-631.

46-630. Conservation district; board of directors; corrective measures; hearing; notice; publication; order; rules and regulations; consistent with Nebraska Ground Water Management Act; approved by district. Whenever the board of directors shall determine that rules and regulations are necessary in order to ensure the proper conservation of ground water within the district, it shall confer with the three state agencies and ground water users within the district. No rules and regulations shall be adopted until after a public hearing and unless the board of directors finds such rules and regulations to be in the interest of public health, safety, and welfare and in harmony with the state water plan as developed by the Nebraska Natural Resources Commission. Notice of such hearing shall be given as provided in section 46-618, and in addition the publication shall set out in general terms the rules and regulations proposed. The board shall within seven days after such hearing, announce the rules and regulations adopted and shall cause notice thereof to be published in a newspaper of general circulation throughout the district. Notice of such rules and regulations shall also be sent to all known ground water users throughout such district by either certified or registered mail. The board shall have authority to compel compliance with such rules and regulations by an action brought in the district court of the county in which any failure to comply is found to exist. Any rules and regulations adopted by such board of directors shall be consistent with the purposes of this act, shall not conflict with rules and regulations adopted pursuant to section 46-663 or 46-666, and shall, prior to adoption, receive concurrent approval by the natural resources district or districts encompassed in whole or in part by the ground water conservation district.

46-631. Conservation district; board of directors; taxes; levy; limitation. The board of directors may levy and collect annually taxes necessary to finance the activities of such district to the amount of not more than one mill on the dollar of the assessed value of all taxable real property within such district. It shall, on or before the first day of August in each year, certify its mill levy to the county clerks of the counties wholly or partially within the district, who shall extend the same on the county tax list, and the same shall be collected by the county treasurer in the same manner as state and county taxes. It shall be the duty of the board to apply for and to receive from the county treasurers all money to the credit of the district. The county treasurer shall disburse the same on the order of the treasurer of the district.

46-632. Conservation district; claims; warrants; interest; payment; indebtedness; limitation. All claims against ground water conservation districts may be paid by warrants or orders, duly drawn on the treasurer of such district, signed by the president and countersigned by the secretary. When such warrants or orders have been issued and delivered, they may be presented to the treasurer of the district, and if such be the fact, endorsed not paid for want of funds. Such warrants or orders shall be registered by the treasurer in the order of presentation, shall draw interest from the date of registration thereof, and shall be received by the county treasurer in payment of ground water conservation district taxes levied pursuant to section 46-631. The indebtedness of the district shall never exceed the amount to be raised within one year by the proposed levy.

46-633. Conservation district; dissolution; procedure; funds; disposition. If there are no debts outstanding a ground water conservation district may be dissolved by following the procedures required for the organization of the district. The question of dissolution shall not be submitted more often than once every twelve months. In case a district is dissolved the funds on hand or to be collected shall be held by the treasurer, and the directors shall petition the district court of the county in which the main office is located for an order approving the distribution of funds to the taxpayers of the district on the same basis as collected.

46-634. Act, how cited. Section 46-614 to 46-634 may be cited as the Ground Water Conservation Act of Nebraska.

46-635. Ground water, defined. Ground water is that water which occurs or moves, seeps, filters, or percolates through the ground under the surface of the land.

46-636. Ground water; pumping for irrigation purposes; Legislature; finding. The Legislature finds that the pumping of water for irrigation purposes from pits located within fifty feet of the bank of any natural stream may have a direct effect on the surface flow of such stream.

46-637. Ground water; pumping for irrigation purposes; permit; application; approval by Director of Water Resources. The use of water described in section 46-636 may only be made after securing a permit from the Department of Water Resources for such use. In approving or disapproving applications for such permits, the Director of Water Resources shall take into account the effect that such pumping may have on the amount of water in the stream and its ability to meet the requirements of appropriators from the stream.

46-638. The Director of Water Resources of the State of Nebraska is hereby authorized to grant and administer permits to cities, villages or to municipal corporations supplying water to cities and villages: (1) To locate, develop and maintain ground water supplies through wells or other means and to transport water

into the areas to be served by the city, village or municipal corporation, and (2) to continue existing use of ground water and transportation of ground water into the area served by the city, village or municipal corporation.

46-639. An applicant which desires to avail itself of the provisions of sections 46-638 to 46-650 shall make application in writing to the Director of Water Resources for a permit. The application shall include (1) a statement of the amount of water for which a permit is desired together with an exhibit of maps showing the location of all wells, and (2) such other information as the director may deem necessary or desirable, and shall be accompanied by a fee in the amount of fifty dollars for the first five million gallons per day and an additional twenty dollars for each additional increment of five million gallons per day requested. The fee shall be based on the amounts of water requested on a daily average basis.

46-640. Upon receipt of an application, the Director of Water Resources shall prepare a notice of his intention to proceed to make a determination whether a permit should be granted. The notice shall set forth a place and time, which shall not be less than thirty days after the date of the last publication of notice, when the director or his authorized assistant shall begin the taking of testimony in support of the application to withdraw ground water and transport it into the area to be served and the amount of the water withdrawal applied for. The director shall cause such notice to be published in a legal newspaper in each county in which the well field or any part thereof is or will be located three successive weeks prior to the date of hearing; publication may be proved by affidavit of any person having knowledge of the fact, specifying the time when and the paper in which the publication was made, and that said newspaper is a legal newspaper under the statutes of the State of Nebraska.

46-641. Any person who claims that his interest is adversely affected may, not less than ten days prior to the hearing date specified in the notice referred to in section 46-640 file in the office of the Director of Water Resources written objections to the granting of the permit and appear before the director in opposition thereto at the time and place specified for the hearing. Every objection filed shall specify particularly the grounds of the objection.

46-642. If the Director of Water Resources, after the hearing, finds that the withdrawal and transportation of ground water requested by the applicant is reasonable, is not contrary to the conservation and beneficial use of ground water, and is not otherwise detrimental to the public welfare, he shall grant a permit to the applicant to withdraw and transport water in the amount applied or in a lesser amount; Provided, any permit granted under the provisions of sections 46-638 to 46-650 prior to October 23, 1967, shall be and remain valid notwithstanding any lack of findings by the director of the conditions set forth in this section. The permit so granted shall have a priority date as of the time when the application is filed with the director.

46-643. In the case of cities, villages or municipal corporations engaged in the utilization of wells for public water supplies prior to June 27, 1963, the procedure to secure a permit shall be according to the procedures outlined in section 46-639 and all rights which may accrue by virtue of a permit shall relate to the first date of beneficial use, if application therefor is filed with the Director of Water Resources prior to April 1, 1965. The director shall grant a permit to the city, village or municipal corporation for the continued use of facilities existing prior to June 27, 1963, without hearing, if the application is filed prior to April 1, 1965, and if the application meets the requirements of section 46-639.

46-644. Permits granted by the Director of Water Resources shall be valid for a period of five years after the granting of a permit and as long thereafter as the water for which the permit is granted is used. For the purposes of sections 46-638 to 46-650, the commencement of construction of facilities to provide water for beneficial use shall be deemed the date of the commencement of beneficial use. If it shall appear that the holder of a permit granted under the provisions of sections 46-638 to 46-650 has not used water for a beneficial purpose and in accordance with the terms of the permit for more than three years, such permit may be revoked or modified by the director. The procedure for such revocation or modification shall be the same as that provided for in sections 46-229.02 to 46-229.05.

46-645. The Director of Water Resources may grant to any city, village or municipal corporation which supplies water to the inhabitants of any city or village permits to store excess, unused and unappropriated water for recharging ground water reservoirs. The procedure to be followed in granting permits to utilize excess, unused and unappropriated water for recharging ground water reservoirs shall, so far as applicable, be the same as that required for granting permits for the use of ground water as provided in sections 46-638 to 46-650.

46-646. Any person who deems himself aggrieved by any order or decision in connection with the granting or denial, in whole or in part, of an application for a permit or in connection with the revocation or modification of a permit may institute proceedings in the Supreme Court of Nebraska in the manner provided for in section 46-210.

46-647. Nothing in sections 46-638 to 46-650 shall be construed as limiting any right of an owner of an estate or interest in or concerning land to recover damage for any injury done to his land or to any water rights appurtenant thereto; nor shall sections 46-638 to 46-650 limit rights of condemnation which cities, villages and municipal corporations have under the laws of the State of Nebraska.

46-648. The use of ground water pursuant to a permit granted by the Director of Water Resources under the provisions of sections 46-638 to 46-650 shall be subject to and governed by the provisions of section 46-613.

46-649. The Director of Water Resources may adopt all rules and regulations necessary or desirable to secure compliance with the provisions of sections 46-638 to 46-650.

46-650. Sections 46-638 to 46-650 shall be known and cited as the City, Village and Municipal Corporation Ground Water Permit Act.

46-651. Except as provided in section 46-653 to 46-654, after November 18, 1965, no irrigation or industrial well or well of any other city or village shall be drilled within one thousand feet of any well or any city or village used to supply such city or village and its inhabitants with water, and no well of any such city or village shall be drilled within one thousand feet of any such irrigation or industrial well.

46-652. Protection under the provisions of section 46-651 shall extend to the owner of all wells now or in the future registered under section 46-602, and the owner of any irrigation or industrial well and each city or village shall, to obtain such protection, register any unregistered well now existing or drilled in the future with the Department of Water Resources, stating the use and precise location of such well. Such registration shall be made on forms prescribed and furnished by the Director of Water Resources. A separate registration shall be required for each such well, and each registration shall be accompanied by a fee of seven dollars and fifty cents, which the director shall transmit to the State Treasurer for deposit in the state treasury to the credit of the General Fund.

46-653. Any person may apply to the Director of Water Resources for a special permit to drill a well without regard to the spacing requirements of section 46-651. Such application shall be in such form as the director shall prescribe and furnish, and shall contain a statement of the precise location of the proposed well, facts justifying the request for such special permit, the proposed size of such well, expressed in gallons per minute, to the extent that capacity is susceptible of advance determination, and the name of the person who is actually going to drill the well. A separate application shall be submitted for each well for which a special permit is sought, and each application shall be accompanied by a fee of twelve dollars and fifty cents which the director shall transmit to the State Treasurer for deposit in the state treasury to the credit of the General Fund. When considering the approval or rejection of any such application, the director shall consider the facts offered as justification of the need for special permit, the known ground water supply, and such other pertinent information as may be available to him. Such application may be approved or disapproved in whole or in part and the special permit issued or refused accordingly.

46-654. Any city or village having a permit under sections 46-638 to 46-650, is hereby granted the protection of the provisions of sections 46-651 to 46-655 for all wells for which a permit has been or in the future is granted by the Department of Water Resources under sections 46-638 to 46-650.

46-655. Any violation of the provisions of sections 46-651 to 46-655 may be enjoined in an action brought in the district court of the county in which such violation or any attempted or threatened violation occurs.

Nebraska Groundwater Management Act

46-656. The Legislature finds, recognizes, and declares that the management and conservation of ground water and the beneficial use thereof are essential to the economic prosperity and future well-being of the state and that in geographic areas where ground water may be declining or where shortages of ground water may occur, the public interest demands the implementation of management practices to conserve ground water supplies and to prevent the inefficient or improper use thereof. To provide for an orderly management system, particularly in areas where changing ground water conditions require the designation of control areas with special regulation of future development and use, the Legislature recognizes the need for this act.

46-657. As used in this act and in sections 46-601 to 46-613.01 and sections 46-636 to 46-655, unless the context otherwise requires:

(1) Person shall mean a natural person, partnership, association, corporation, municipality, irrigation district, and any agency or political subdivision of the state;

(2) Ground water shall mean that water which occurs or moves, seeps, filters, or percolates through ground under the surface of the land;

(3) Well shall mean any artificial opening or excavation in the ground through which ground water flows under natural pressure or is artificially withdrawn. A series of wells developed and pumped as a single unit shall be considered as one well. For

purposes of sections 46-659 to 46-662, well shall not mean any artificial opening or excavation in which a pump of less than one hundred gallons per minute capacity is to be installed and which is to be used solely for supply of ground water for domestic purposes;

(4) Construction of a well shall mean boring, drilling, jetting, digging, or excavation, and installing casing, pumps, and other devices for withdrawing or facilitating the withdrawal of ground water;

(5) Pollution of ground water shall mean contamination or other alteration of the natural quality of such water, however caused, including contamination by salines, minerals, industrial wastes, or sewage;

(6) District shall mean a natural resources district operating pursuant to Chapter 2, article 32.

(7) Director shall mean the Director of Water Resources;

(8) Illegal well shall mean (a) any well operated or constructed without, or in violation of, a permit required by the provisions of this act, (b) any well completed at any time before or after August 24, 1975, but not properly registered in accordance with the provisions of sections 46-602 to 46-605, or (c) any well not in compliance with any other applicable laws of the State of Nebraska or with rules and regulations adopted pursuant to this act; and

(9) Control area shall mean any area so designated by the director following a public hearing initiated and conducted pursuant to section 46-658.

46-658. (1) An area may be designated a control area if it shall be determined, following evaluation of relevant hydrologic data, history of developments, and projection of effects of current and new development, that there is an inadequate ground water supply to meet present or reasonably foreseeable needs for beneficial use of such water supply. In determining the adequacy of such ground water supply, the director's considerations shall include, but not be limited to, a finding of the existence of any of the following conditions:

(a) Conflicts between users are occurring or may be reasonably anticipated;

(b) Substantial economic hardships exist, or are foreseeable as a direct result of current or anticipated ground water decline; or

(c) Other conditions exist that indicate the inadequacy of the ground water supply or that require the area be designated as a control area for protection of the public welfare.

(2) A hearing to designate a control area may be initiated by a district whenever it has information, sufficient in the opinion of the board of directors, to require that any portion of such district should be designated as a control area. The board of directors shall report such information to the director with a request that a hearing be held to determine if a control area should be established.

(3) Within thirty days after a hearing has been initiated pursuant to subsection (2) of this section, the director shall consult with the district and fix a time and place for a public hearing to consider the information supplied and to hear any other evidence. The hearing shall be held within one hundred twenty days after it has been initiated, shall be open to the public, and shall be located within, or in reasonable proximity to, the area proposed for designation as a control area. Notice of the hearing shall be published in a newspaper of general circulation within the geographic area for three consecutive weeks, the last publication to be not less than seven days prior to the hearing. After the hearing, which shall include testimony of representatives of the Conservation and Survey Division of the University of Nebraska and of the Nebraska Natural Resources Commission, and the results of any studies or investigations conducted by the director as he deems necessary, the director shall issue an order declaring that the area shall or shall not be designated a control area. If the director shall determine that an area should be designated as a control area, he shall, by order, following consultation with such state agencies and the district or districts affected, define such area geographically and stratigraphically. Notice of the order shall be provided in the same manner as that provided for the hearing.

(4) Modification in control area boundaries may be accomplished utilizing the procedure established in this section for the initial designation of such areas as control areas, but hearings for designation or modification of such control area may not be initiated more often than once a year.

46-659. (1) Any person who intends to construct a well in a control area in this state shall, before commencing construction, file with the director an application for a permit on forms provided by the director. The director shall make such forms available at each district in which a control area is located, in whole or in part, and at such other places as he may deem appropriate.

(2) The application shall be accompanied by a twenty-five dollar filing fee payable to the director, and shall contain (a) the name and post-office address of the applicant or applicants, (b) the nature of the proposed use, (c) the intended location of the proposed well or other means of obtaining ground water, (d) the intended size, type, and description of the proposed well and the estimated depth, if known, (e) the estimated capacity in gallons per minute, (f) the acreage and location by legal description of the land involved if said water is to be used for irrigation, (g) a description of the proposed use if other than for irrigation purposes, and (h) such other information as the director may require. Before any well having a capacity of less than one hundred gallons per minute is modified

to withdraw ground water at a rate equal to or greater than one hundred gallons per minute, an application shall be filed for a permit pursuant to this act before water is so withdrawn.

46-660. (1) An application for a permit for a well in a control area shall be denied only if the director shall find, with the advice of the district, (a) that the location or operation of the proposed well or other work would conflict with any regulations or controls adopted by the district pursuant to this act, or (b) that the proposed use would not be beneficial use of water for domestic, agricultural, manufacturing, or industrial purposes. If the director shall find that the application is incomplete or defective, he shall return the application for correction. If the correction is not made within sixty days, the application shall be canceled. All permits shall be issued with or without conditions attached, or denied not later than thirty days after receipt by the director of a complete and properly prepared application. A permit issued shall specify all controls adopted by a district pursuant to this act relevant to the construction or utilization of the proposed well. No refund of any application fees shall be made regardless of whether the permit is issued, canceled, or denied. The director shall transmit one copy of each permit issued to the district in which the well is to be located.

(2) All procedures set forth in this section shall be conducted in conformance with and subject to the provisions of Chapter 84, article 9.

46-661. The issuance by the director of a permit pursuant to the provisions of this act, or registration of a well pursuant to Chapter 46, article 6, shall not vest in any person the right to violate any district rule, regulation, or control in effect on the date of issuance of the permit or the registration of such a well, or to violate any rule, regulation, or control thereafter properly adopted pursuant to this act.

46-662. When any permit is approved, the applicant shall commence construction as soon as possible after the date of approval and shall complete the construction and equip the well prior to the date specified in the conditions of approval, which date shall be not more than one year after the date of approval, unless it is clearly demonstrated in the application that one year is an insufficient period of time for such construction. If the applicant shall fail to complete the project under the terms of the permit, the director may withdraw the permit.

46-663. Regardless of whether or not any portion of a district has been designated as a control area pursuant to the provisions of this act, in order to administer and enforce this act and to effectuate the policy of the state to conserve ground water resources, a district may:

(1) Adopt, following public hearing, notice of which shall have been given in the manner provided in section 46-658, rules and regulations necessary to discharge the administrative duties assigned in this act;

(2) Require such reports from ground water users as may be necessary;

(3) Conduct investigations, and cooperate or contract with agencies of the United States, agencies or political subdivisions of this state, public or private corporations, or any association or individual on any matter relevant to the administration of this act;

(4) Report to and consult with the Department of Environmental Control on all matters concerning the entry of pollution or polluting materials into ground water supplies;

(5) Issue cease and desist orders to enforce any of the provisions of this act or of orders or permits issued pursuant hereto, and initiate suits to enforce the provisions of orders issued pursuant to this act; and

(6) Issue cease and desist orders to restrain the construction of illegal wells or the withdrawal or use of water from such wells.

46-664. (1) In order to conserve ground water supplies and to prevent the inefficient or improper runoff of such ground water, after August 24, 1975, each person who uses ground water irrigation in an area designated as a control area shall take action to control or prevent the runoff of water used in such irrigation.

(2) Within ninety days after August 24, 1975, each district shall adopt, following public hearing, notice of which shall be given in the manner provided in section 46-658, rules and regulations necessary to prohibit surface runoff of water derived from ground water irrigation. Such rules and regulations shall prescribe (a) standards and criteria delineating what constitutes the inefficient or improper runoff of ground water used in irrigation, (b) procedures to prevent, control, and abate such runoff, (c) measures for the construction, modification, extension, or operation of remedial measures to prevent, control, or abate runoff of ground water used in irrigation, and (d) procedures for the enforcement of this section.

(3) Each district may issue cease and desist orders to enforce any of the provisions of this section or rules and regulations issued pursuant to this section.

NOTE: Each natural resources district in the state has adopted rules and regulations to implement section 46-664. Because these rules are not completely uniform statewide, readers interested in particular natural resources districts should obtain copies of the rules and regulations adopted by these districts.

46-665. Within sixty days following the designation of any area as a control area, and at such other times as the district desires the adoption, amendment, or repeal of any control authorized in this act, the district shall hold a public hearing to determine the type

of controls to be imposed within that control area. Public notice of the time and place of all such hearings shall be given in the manner provided in section 46-658.

46-666. (1) The district shall by order, after a hearing conducted pursuant to section 46-665, the record of which shall include the testimony of a representative of the Conservation and Survey Division of the University of Nebraska and the Nebraska Natural Resources Commission, adopt one or more of the following controls, which shall be subject to approval by the director:

(a) It may determine the permissible total withdrawal of ground water in the designated control area for each day, month, or year, and allocate such withdrawal among the ground water users within the area;

(b) It may adopt and enforce a system of rotation for use of ground water in the control area;

(c) It may adopt well-spacing requirements more restrictive than those found in Chapter 46, article 6; and

(d) It may adopt such other reasonable regulations as are necessary to carry out the intent of this act.

(2) If the district determines, following a public hearing conducted pursuant to section 46-665, that depletion of the ground water supply in the control area or any portion thereof is so excessive that the public interest cannot be protected solely through implementation of reasonable controls adopted pursuant to subsection (1) of this section, it may, with the approval of the director, close the control area or portion thereof to the issuance of any additional permits for a period of one calendar year. Such areas may be further closed thereafter by similar procedure for additional one-year periods. Any such area may be reopened at any time the district shall determine that conditions warrant new permits, at which time the director shall consider all previously submitted applications for permits in the order in which they were received.

(3) The district shall cause a copy of each order adopted pursuant to this section to be published once each week for three consecutive weeks in a local newspaper published or of general circulation in the area involved, the last publication of which shall be not less than ten days prior to the date set for the effective date of such order.

(4) Whenever a control area, designated pursuant to section 46-658, encompasses portions of two or more districts, the responsibilities and authorities delegated in this section and section 46-665 shall be exercised jointly and uniformly by agreement of the respective boards of directors of all districts so affected.

(5) If, at the end of one year following a hearing conducted pursuant to section 46-665, the district or districts conducting such hearing have not adopted a specific control or controls pursuant to subsection (1) of this section, the power to specify such controls shall vest in the director who shall, within ninety days thereafter, adopt by rule and regulation such control or controls as he shall deem necessary for carrying out the intent of this act. Subject to section 46-667, the enforcement of controls adopted pursuant to this section shall be the responsibility of the district or districts involved.

(6) If the power to adopt a control or controls shall be vested in the director, he shall be provided with a copy of all information, testimony, and data available to the district or districts as a result of the public hearing for the adoption of a control or controls. At his discretion, the director may conduct one or more additional public hearings prior to making his determination or selection of controls. Notice of any such additional hearings shall be given in the manner provided in section 46-658.

46-667. If, at any time after a twelve-month period from the date of the order of the district or director, as the case may be, adopting a control or controls pursuant to section 46-666, the governing body of any municipal corporation owning wells within the affected control area or five per cent of the well owners in a control area allege by petition to the director that the adopted control or controls are not being enforced uniformly, equitably, or in good faith, the director shall hold a hearing within sixty days, notice of which shall be given in the manner provided in section 46-658. The director shall receive evidence at such hearing to determine whether or not the adopted control or controls are being enforced uniformly, equitably, and in good faith, and if the director shall determine that the control or controls are not being so enforced, then the enforcement power set out in section 46-666 shall vest in the director for a period of twelve months. At the end of the twelve-month period, enforcement shall revert to the district or districts involved. Nothing in this act shall restrict the right of a municipality or five per cent of well owners in a control area to repetition at any time for another hearing for the enforcement of controls.

46-668. All hearings conducted pursuant to this act shall be of record and available for review.

46-669. Any person aggrieved by any order of the district or of the director issued pursuant to the provisions of this act may appeal in the manner provided by Chapter 84, article 9.

46-670. The director may adopt, in accordance with Chapter 84, article 9, such rules and regulations as are necessary to the discharge of duties assigned to him in this act. All fees paid to the director in accordance with the terms of this act shall be paid into the Ground Water Management Fund, which is hereby created, and which shall be administered by the director. Any money credited to such fund may be utilized by the director for payments of expenses incurred in the administration of this act.

46-671. In the administration of this act, all actions of the director and of the districts shall be consistent with the provisions of section 46-613.

46-672. (1) Whenever the boundaries of a designated control area encompass, either wholly or in part, any existing ground water conservation district or districts organized under sections 46-614 to 46-634, it shall be the duty of the district or director, as the case may be, to actively consult with such ground water conservation district or districts before adopting, amending, or repealing any control authorized by section 46-666, and before adopting methods, rules, and regulations for the enforcement of the adopted control or controls.

(2) The district shall be directed wherever possible to utilize and draw upon existing research data, studies, data collection, or any other beneficial information which has been compiled by, or is in the possession of, ground water conservation districts, and in the interest of avoiding duplication of effort and the resultant unnecessary burden to the taxpayer, the ground water conservation district shall furnish such information or data upon the request of the district. Nothing in this act shall be interpreted to restrict the power of a ground water conservation district to collect data, undertake studies, or collect other information as prescribed in section 46-629, and such districts are hereby encouraged to actively exercise such authority.

46-673. Each district encompassed in whole or in part by a control area designated pursuant to section 46-658 shall have the power and authority to levy a tax not to exceed one-fourth of one mill annually on all of the taxable property, except intangible property, within the portion of the district encompassed by such control area. Such levy, which shall be in addition to that authorized by section 2-3225, shall be utilized only for the costs of administration of this act within such control area. Certification and collection of such levy shall be administered by the district and by the county or counties involved in the same manner as the levy authorized by sections 2-3225.

CHAPTER 77, ARTICLE 27
REISSUE REVISED STATUTES OF NEBRASKA, 1943

77-27,149. As used in sections 77-27,149 to 77-27,155 unless the context otherwise requires:

(1) Facility shall mean any system, equipment or apparatus, or disposal system, including disposal wells, or any treatment works, appliance, equipment, machinery or installation constructed, used or placed in operation primarily for the purpose of reducing, controlling or eliminating air or water pollution caused by industrial or agricultural waste, including the generation of electricity; Provided, that facilities such as air conditioners, dust collectors, filters, fans, and similar facilities designed, constructed or installed solely for the benefit of the person for whom installed or the personnel of such person, and facilities designed or installed for the reduction or control of automobile exhaust emissions shall not be deemed air pollution control facilities for purposes of this subdivision;

(2) Industrial or agricultural waste shall mean any liquid, gaseous or solid waste substance resulting from any process of industry, manufacture, trade or business, including the generation of electricity, or from the development, processing or recovery of any paper or wood which is capable of polluting the air or waters of this state;

(3) Treatment works shall mean any plant, pumping station, incinerator, air pollution abatement equipment or installation, or other works or reservoir used primarily for the purpose of abating, treating, stabilizing, isolating or holding industrial or agricultural waste; and

(4) Disposal system shall mean any system used primarily for disposing of or isolating industrial or agricultural waste and shall include pipe lines or conduits, pumping stations and force mains, and all other constructions, devices, appurtenances and facilities used for collecting or conducting air-borne or water-borne industrial or agricultural waste to a point of disposal, treatment or isolation except that which is necessary to the manufacture of products.

KANSAS-NEBRASKA BIG BLUE RIVER COMPACT

As stipulated in Article V, 5.2(b),(4), of the compact signed January 25, 1971, the administrative agency known as the Kansas-Nebraska Big Blue River Compact Administration has the authority to:

Regulate, in the same manner that diversion of natural flows is regulated, withdrawals of water from irrigation wells drilled to replace wells installed before that date, in the alluvium and valley side terrace deposits within one mile from the thread of the river and between the mouth of Walnut Creek and the Kansas-Nebraska state line on the Little Blue River and between the mouth of Turkey Creek and the Kansas-Nebraska state line on the Big Blue River (as delineated on Exhibits A and B of Supplement No. 1 to the Report of the Engineering Committee) provided that, if the regulation of such wells fails to yield any measurable increases in flows at the state-line gaging stations as determined by the investigations to be undertaken under Article III, paragraph 3.4, the regulation of such wells shall be discontinued. Determination of the effect on streamflow of the pumping of such wells shall rest with the Administration.

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SOME RECOMMENDATIONS FOR WATER QUALITY MANAGEMENT

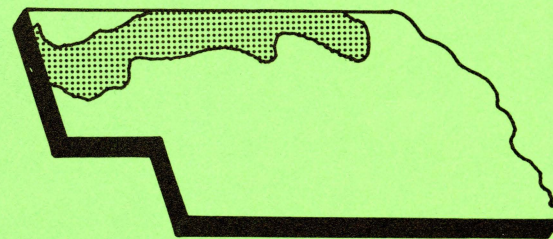
- Assure training and certification of wastewater treatment plant operators by passing such a state law.
- Connect new sources of waste to existing sewage systems.
- Dispose wastewater on land, where soil and other conditions permit.
- Practice soil conservation.
- Manage feedlots in order to keep runoff from entering streams.
- Avoid the use of septic tanks as a means of waste disposal.
- Regionalize sanitary landfills to dispose of solid waste.
- Develop a system of protective flows for Nebraska's streams.

Nebraska Natural Resources Commission
301 Centennial Mall South — 4th Floor
P.O. Box 94876
Lincoln, Nebraska 68509

For a Free Copy of the Niobrara River Basin Water Quality Management Plan, the latest Niobrara River Basin Implementation Report, Public Hearing Testimony or other desired information, call Sue Hoppel (402)-471-2081 or write to the above address.



YOUR ***water quality management plan***



NIOBARRA RIVER BASIN

OUR WATER PROBLEMS

WATER is used in the Niobrara River Basin for household needs, irrigation, industrial needs, recreation, and the propagation of fish and wildlife. A certain degree of purity is required for each of these uses. Sources of pollution — feedlots, runoff from agricultural and urban lands, industries, and households — must be controlled in order to achieve these required purities. The purpose of the **Niobrara River Basin Water Quality Management Plan** is to **IDENTIFY SOURCES OF POLLUTION AND PLAN FOR THEIR CONTROL**. By carrying out the Plan's suggested recommendations, waters of the Niobrara River Basin can be protected for continued use.



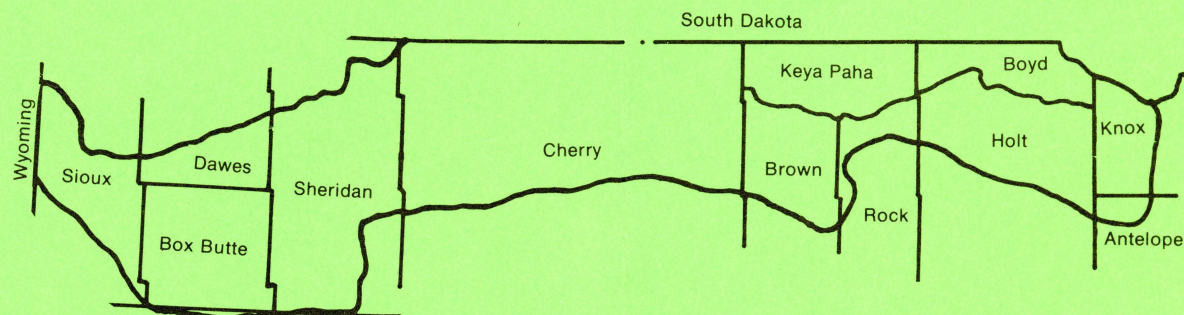
A SUMMARY: NIOBRARA WATER QUALITY MANAGEMENT PLAN

Our objective is "...to restore and maintain the chemical, physical, and biological integrity of the nation's waters."

Federal Water Pollution
Control Act Amendment, 1972

ALLIANCE is the largest city discharging its wastewaters into the Niobrara River Basin. Also in the Basin are the drainage areas of the Box Butte, Bear, Gordon, Plum, Long Pine, Sandy, Eagle, Blackbird, Red-bird, Verdigre, and Ponca Creeks; and the Snake and Keya Paha Rivers.

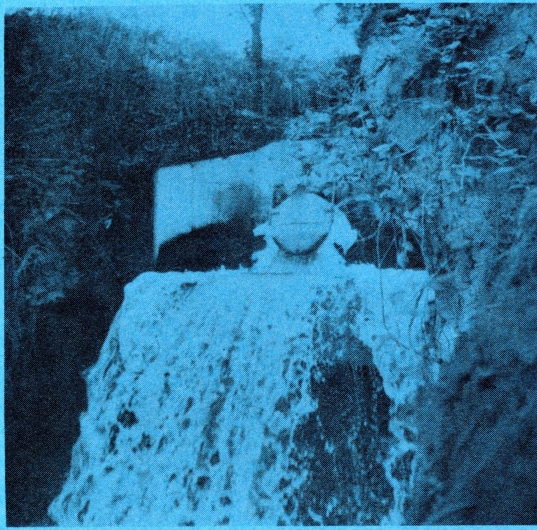
Point sources of pollution have a detectable origin, and are discharged from a distinct, confined source. **Nonpoint sources** of pollution comes from such diffused origins as agricultural land runoff or mining tracts. **The Niobrara River Basin Water Quality Management Plan primarily deals with point sources of pollution.**



This comprehensive plan relates the contribution of point waste discharges and non-point pollutant sources to water quality problems in the Basin.

Other useful information contained in this **Basin Water Quality Management Plan** is a socio-economic analysis and a general physical description of the basin, streamflow and groundwater level records, uses of surface and groundwaters, explanation of water laws, future structural and nonstructural development, a discussion of Nebraska's water quality standards system, a water quality analysis, a discussion of each source of pollution and its effects, and priority needs lists for municipalities and industries.

To satisfy the needs of a growing population, as well as preserve our fish and wildlife resources, water pollution must be held to a minimum and eliminated wherever possible.



SOME RECOMMENDATIONS FOR WATER QUALITY MANAGEMENT

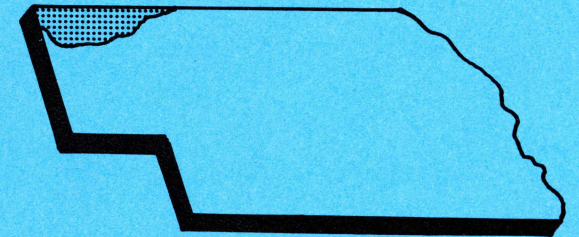
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For a Free Copy of the White River-Hat Creek Basin Water Quality Management Plan, the latest White River-Hat Creek Basin Implementation Report, Public Hearing Testimony or other desired information, call Sue Hoppel (402)-471-2081 or write to the above address.



YOUR water quality management plan



**WHITE RIVER-HAT CREEK
RIVER BASIN**

OUR WATER PROBLEMS

WATER is used in the White River-Hat Creek Basin for household needs, irrigation, industrial needs, recreation, and the propagation of fish and wildlife. A certain degree of purity is required for each of these uses. Sources of pollution—feedlots, runoff from agricultural and urban lands, industries, and households—must be controlled in order to achieve these required purities. The purpose of the **White River-Hat Creek Basin Water Quality Management Plan** is to IDENTIFY SOURCES OF POLLUTION AND PLAN FOR THEIR CONTROL. By carrying out the Plan's suggested recommendations, waters of the White River-Hat Creek Basin can be protected for continued use.



A SUMMARY:

WHITE RIVER-HAT CREEK WATER QUALITY MANAGEMENT PLAN

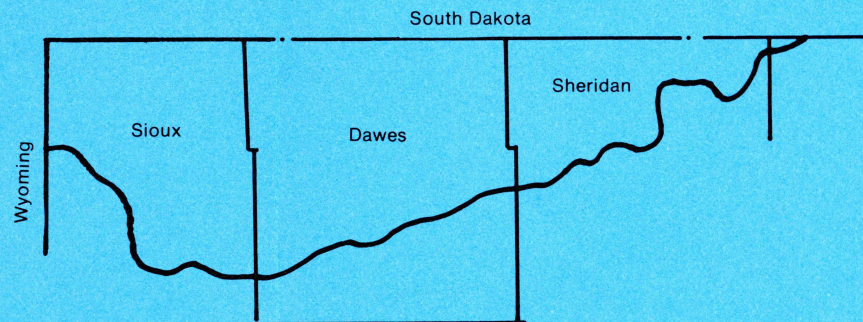
CHADRON is the largest city discharging its wastewaters in the White River-Hat Creek Basin. Also included within the Basin are the drainage areas of Squaw, Big Cottonwood, Bordeaux, and White Clay Creeks. This Basin drains out of the State of Nebraska.

Other useful information contained in this **Basin Water Quality Management Plan** is a socio-economic analysis and a general physical description of the basin, streamflow and groundwater level records, uses of surface and groundwaters, explanation of water laws, future structural and nonstructural development, a discussion of Nebraska's water quality standards system, a water quality analysis, a discussion of each source of pollution and its effects, and priority needs lists for municipalities and industries.

Point sources of pollution have a detectable origin, and are discharged from a distinct, confined source. **Nonpoint sources** of pollution comes from such diffused origins as agricultural land runoff or mining tracts. The **White River-Hat Creek Basin Water Quality Management Plan** primarily deals with point sources of pollution.

Our objective is "...to restore and maintain the chemical, physical, and biological integrity of the nation's waters."

Federal Water Pollution
Control Act Amendment, 1972



To satisfy the needs of a growing population, as well as preserve our fish and wildlife resources, water pollution must be held to a minimum and eliminated wherever possible.

This comprehensive plan relates the contribution of point waste discharges and non-point pollutant sources to water quality problems in the Basin.

QUESTIONS AND ANSWERS ON NEBRASKA'S GROUND WATER MANAGEMENT ACT

Deon D. Axthelm
Water Resources Specialist¹

This circular tells about the Ground Water Management Act LB 577 in relation to:

- Control Areas
- Groundwater Management Methods in Control Areas
- Wells, Registration, Permits and Illegal Wells
- Other Groundwater Management Rules and information

¹Appreciation for consultation and assistance in writing this publication is given to: James R. Cook, Legal Counsel, Nebraska Natural Resources Commission; Gordon Peterson, Legal Counsel, Public Works Committee, Nebraska Legislature.

INTRODUCTION

The Ground Water Management Act, LB 577, became effective August 23, 1975. Its purpose is to provide for orderly management practices to conserve groundwater for beneficial use. It gave many of the groundwater management and control authorities and responsibilities to the Natural Resources Districts (NRDs). Certain balancing powers were given to the Director of the Department of Water Resources of our State. In this publication, "Director" refers to the Director of that Department.

LB 577 defines and specifies the procedure by which an area of the state can be designated a control area. No control areas have been designated in Nebraska as of November 7, 1975. A designated control area requires that control measures be adopted relative to groundwater withdrawal and use.

Some less severe management methods can also be put into effect outside of as well as within a control area.

The new law does not materially change the system for registering wells. It does require permits for drilling all but small yield wells in a control area.

Although LB 577 affects all users of groundwater, the greatest impact is on the irrigator. This publication deals primarily with questions related

to the irrigator. For specific content of the law and legal interpretation, refer to Sections 46-656 through 46-674 of the 1975 Supplement to the Revised Statutes of Nebraska.

CONTROL AREA

What is a Control Area

It is an area so designated by the Director of the Department of Water Resources after determination that there is not enough groundwater to meet present or foreseeable needs. The purpose of such a designation is to allow the development and enforcement of measures to deal with the problems of the area. The administration and enforcement procedures within such an area are, in general, the responsibility of the Natural Resources Districts within which the control area lies. The following conditions listed in the law are some of the indicators of inadequacy of the groundwater supply:

1. Conflicts between users are occurring or may be reasonably anticipated.
2. Substantial economic hardships exist or are foreseeable as a direct result of current or anticipated groundwater decline.
3. Other conditions exist that may require the area be so designated for protection of the public welfare.

The Director must also evaluate the hydrologic conditions, the history of development, and the projected effects of current and new development before a designation of a control area is made.

What Are the Steps for Establishing a Control Area?

1. A Natural Resources District Board of Directors requests that the Director of Water Resources hold a hearing to determine if a control area should be established.
2. The Director, after consulting with the NRD Board¹ on time and location, must hold a hearing within 120 days after receiving the request.

Notices must be given by newspaper coverage for three weeks before the hearing. The hearings are open to the public and must be located within or reasonably close to the proposed control area. Information supplied by the NRD and testimony from others is to be considered. The Conservation and Survey Division—UNL, and the Nebraska Natural Resources Commission must also testify. The Director may also conduct any other studies or investigations deemed necessary.

3. The Director issues an order declaring either that the proposed area shall or shall not be designated a control area.

4. If the order is to establish a control area, the Director must define the area geographically and stratigraphically (geologic formations).

If a Control Area Is Designated, Who Will Be in Charge?

The Natural Resources District within which the area lies will be in charge. If the control area extends into more than one NRD, then both boards, by agreement, may jointly exercise authority. One-fourth of one mill tax may be levied on taxable property within a control area only to be used for costs of administering the law within that area.

GROUNDWATER MANAGEMENT METHODS IN CONTROL AREAS

Must Groundwater Management be Established in a Control Area?

Yes, within 60 days after the designation of a control area the NRD Board must hold a public hearing to determine the type of controls to be imposed.

What Are the Controls That Could Be Imposed?

After the hearing and subject to approval of the Director, Department of Water Resources, the controls that may be used by the NRD are:

1. Allocation of the permissible groundwater withdrawal among groundwater users.
2. Rotation of the use of groundwater.
3. Require spacing of wells more restrictive than the present state statutes.
4. Adopt any other reasonable regulations.
5. Close the control area, or portions of it, to the issuance of permits for wells. This restriction

may be imposed if the District Board finds after the hearing that the public interest cannot be adequately protected solely by reasonable exercise of the other four control methods. This restriction lasts for one year after which a hearing must again be held in order to reclose portions of or the entire control area to additional permits. This procedure must take place annually if permits are to be denied.

If an area is reopened to permits for drilling, applications are considered in the order received.

Will the Controls Apply to My Well if it Was Drilled Prior to the Designation of a Control Area?

Yes, all well owners in a control area will be required to comply with the regulations adopted by the NRD regardless of the date of drilling.

How Will I Know if Controls Are Adopted?

The District must publish, once each week for three weeks, a copy of the order in the newspaper(s) circulated in the area.

What Happens if the NRD Board Does Not Institute Controls in a Control Area?

After one year of inaction of the NRD Board in implementing controls, the power to specify controls will vest in the Director of the Department of Water Resources. The Director must adopt a control or controls within 90 days after receiving such authority.

The enforcement of those controls, however, remains the responsibility of the district(s) involved.

If Controls Are Not Properly Enforced, Then What Takes Place?

Five percent of the well owners or any governing body of a municipality owning wells in the area may petition the Director alleging that the controls are not being enforced uniformly, equitably, or in good faith. The Director then must hold a hearing in the area. If he finds controls are not being properly enforced, then that enforcement power will be vested in the Director. That enforcement power reverts back to the districts after one year. The petition and hearing process may be repeated if necessary.

WELLS - REGISTRATION, PERMITS AND ILLEGAL WELLS

Is Registration of Irrigation Wells Required?

Yes. The Ground Water Management Act made no significant changes in registration procedures. Registration forms which must be completed within 20 days after the completion of the well are to be given by the well owner to the person drilling the well. The driller is then responsible for forwarding those forms along with the Driller's certificate to the Department of Water Resources.

If a well is drilled in a control area, the registration forms must also include the permit number.

Where Can I Get the Registration Forms?

The Department of Water Resources, P.O. Box 94607, Lincoln, Nebraska, 68509, will supply you with the irrigation well registration form. Many irrigation well drillers, Natural Resources Districts, County Extension and Soil Conservation Service offices have them or can help you obtain one.

Must I Obtain a Permit to Drill an Irrigation Well?

Permits are not now required for the installation of irrigation or other wells. However, if and when an area has been designated as a control area, permits will be required for installing all wells except domestic wells yielding less than 100 gallons per minute. No control areas had been designated as of November 7, 1975. If you have reason to believe that a control area has since been designated in your area, you should check with your NRD.

If I Abandon an Irrigation Well and Replace it With Another Well, do I Have to Obtain a Permit or Re-register the New Well?

A no-cost registration is required for replacements of all abandoned wells regardless of location. It is the same procedure as for a new well registration except that 30 days is allowed for completion of the procedure. Abandoning the original well also requires giving written notice to the Department of Water Resources, within 60 days after the fact. Special requirements for the method for abandoning wells are or will soon be adopted by the Director. You should be aware of such requirements before abandoning any well.

A permit from the Department of Water Resources is required for a replacement well within a control area if the pump to be installed is of greater capacity than the one formerly used in the abandoned well. No permit is required for a replacement well in a control area that does not exceed the capacity of the well replaced. Drilling such a well can proceed immediately.

What Will a Permit in a Control Area Do?

A permit will give you permission to drill a well. It will specify any conditions under which the well may be constructed or operated and all related controls adopted by the District.

How Would I File for a Permit to Drill a Well in a Control Area?

Before commencing construction, obtain an application form from the Department of Water Resources or your NRD office. The application accompanied by a \$25 filing fee is sent to the Director, Department of Water Resources.

What Chance Will I Have of Obtaining a Permit?

The law says an applicant shall be denied a permit only if 1) the location or operation of the well would conflict with any adopted regulation or controls or 2) the proposed water use would not be a beneficial use of water for domestic, agricultural, manufacturing, or industrial purposes.

How Long Will I Have to Wait to See if The Application is Approved or Denied?

Not more than 30 days after the application is received by the Department of Water Resources.

Are There Other Requirements Before Installing An Irrigation Well?

You must observe the current 600 foot distance required between irrigation wells other than your own. In addition, irrigation wells must be spaced at least 1000 feet from municipal and industrial wells and vice versa. There is no specified spacing required between domestic and other types of wells. Regulations within a control area could require greater spacing distances than listed above.

What is an Illegal Well?

It is any well in violation of Nebraska's statutes or relevant rules and regulations. Nebraska statutes

indicate it is: 1) any well requiring registration but not properly registered; 2) any well constructed or operated without a permit where such is required (control area); 3) any well in violation of spacing requirements; 4) any well utilized for application of fertilizer materials without equipment to prevent groundwater contamination; 5) any well or pit from which water is transported to an adjoining state without proper authority; 6) any pit located within 50 feet of the bank of any natural stream and utilized for irrigation purpose without a permit from the Department of Water Resources; 7) any well flowing water under natural (artesian) pressure in excess of the amount which will flow through a one-half inch pipe unless the water is used for irrigation, milling or other mechanical purposes.

Violation of any of the requirements listed may result in a fine of from \$10 to \$5,000 depending on the violation.

What Could Happen if There is an "Illegal Well"?

The NRD, where such a well is located, can issue cease and desist orders to restrain the construction of such a well or to prevent the withdrawal of water from such a well.

OTHER GROUNDWATER MANAGEMENT RULES AND INFORMATION

Does the Ground Water Management Act Require Controlling of Irrigation Water Runoff Pumped From Wells?

Each NRD must hold hearings and adopt rules and regulations to control runoff derived from groundwater irrigation. The regulations shall prescribe:

1. Standards and criteria of inefficient or improper runoff.
2. Procedures and measures to control runoff.
3. Method of enforcement of the regulations.

Can Other Groundwater Management Measures be Undertaken by an NRD Outside of a Control Area?

Yes, an NRD may exercise several authorities directed towards groundwater management throughout the entire district. These could include:

1. Requiring necessary reports from groundwater users.
2. Conducting investigations and cooperating or contracting with other agencies or associations or individuals in the administration of the act.
3. Reporting to and consulting with the Department of Environmental Control regarding pollution or polluting of the groundwater supplies.

Can the Six Groundwater Conservation Districts Previously Established also Require Groundwater Management Rules and Regulations?

Where Groundwater Conservation Districts exist, they can continue to adopt, administer and enforce rules and regulations for groundwater management. However, any such rules and regulations must receive concurrent approval by the Natural Resources Districts and must be consistent with the purposes of LB 577.